

SEVENTY-EIGHTH DAY

(Saturday, May 28, 1977)

The Senate met at 10:00 o'clock a.m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Hance, Harris, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, Mauzy, McKnight, Meier, Moore, Ogg, Parker, Patman, Santiesteban, Schwartz, Sherman, Snelson, Tracger, Truan, Williams.

Absent-excused: Mengden.

A quorum was announced present.

The Reverend John Logan, Church of the Good Shepherd, Austin, Texas, offered the invocation as follows:

O God, the source of wisdom and the fount of strength,
Remember for good this day the Senate of the State.

While its members are busy in the last days of this Session, recall for them the labors of Thy Creation; should they be harried, remind them of Thy calm amidst the convolutions of the Universes; as they become sore pressed for time, make known to them the demands of an eternity of concern.

Keep ever before them their responsibility as Thy Civil Guardians, that all they do may be for the welfare of this State and the good of its citizens.

Do Thou, O God, be both our Guide and our Protector, this day and forevermore. Amen.

On motion of Senator Aikin and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVE OF ABSENCE

Senator Mengden was granted leave of absence for today on account of important business on motion of Senator Harris.

BILLS AND RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate after the caption had been read, the following enrolled bills and resolutions:

S.C.R. 62	S.C.R. 90	S.C.R. 100	S.C.R. 101
S.C.R. 104	S.C.R. 109	S.J.R. 19	
S.B. 39	S.B. 532	S.B. 835	S.B. 1207
S.B. 67	S.B. 559	S.B. 867	S.B. 1209
S.B. 72	S.B. 577	S.B. 911	S.B. 1223
S.B. 170	S.B. 641	S.B. 912	S.B. 1268
S.B. 365	S.B. 656	S.B. 915	S.B. 1279
S.B. 387	S.B. 672	S.B. 1046	S.B. 1282
S.B. 433	S.B. 676	S.B. 1062	S.B. 1302
S.B. 471	S.B. 701	S.B. 1070	S.B. 1303
S.B. 495	S.B. 750	S.B. 1091	S.B. 1304

S.B. 496	S.B. 801	S.B. 1161	S.B. 1323	(Signed subject to Sec. 49a, Article III, of the Consti- tution of the State of Texas)
S.B. 508	S.B. 810	S.B. 1173	S.B. 1325	
S.B. 513	S.B. 812	S.B. 1182		
S.B. 522	S.B. 833	S.B. 1184		

MESSAGE FROM THE HOUSE

House Chamber
May 28, 1977

Honorable William P. Hobby
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 945, Relating to the procedures for incorporating state banks.
(With amendment)

S.B. 208, Relating to award of attorneys' fees in suit to recover land from adverse possession claimant. (With amendment)

S.B. 839, Relating to private clubs operated under the pool system.

S.B. 957, Relating to purchase of improvements and award of contracts by certain water districts for drainage improvements in sections. (With amendment)

S.B. 1211, Amending the Hospital Authority Act.

S.B. 1296, Relating to the Northeast Tarrant County Water District.

S.B. 1319, Relating to conveyance of certain property by the board of regents of West Texas State University. (With amendment)

S.B. 730, Relating to local regulation of alcoholic beverage businesses. (With amendment)

S.B. 1289, Relating to the powers and financing of the Runnels County Water Authority. (With amendment)

S.B. 479, Relating to withholding benefits of certain employees incapacitated due to injury. (With amendment)

S.B. 337, Relating to legal representation for county officials and employees in certain suits. (With amendments)

S.B. 746, Relating to fees for personal bonds.

S.B. 101, Relating to establishing standards for drug abuse treatment programs.

S.B. 787, Relating to sentences for certain corporations and associations adjudged guilty of an offense.

S.B. 620, Authorizing the judge of a municipal court to commit certain persons to a treatment facility for alcoholic detoxification in lieu of a sentence or fine.

S.B. 233, Relating to compensation of judges in certain counties. (With amendment)

S.B. 1045, Relating to payments of additional death benefits for certain retired officers and employees. (With amendment)

S.B. 697, Relating to regulation of coin-operated amusement machines by political subdivisions. (With amendment)

S.B. 1260, Relating to expenses of investigations by the State Fire Marshal. (With amendment)

H.B. 2266, Relating to a supplemental appropriation to the Texas Agricultural Experiment Station and to the Texas Animal Health Commission.

H.B. 1452, Relating to the petition for municipal annexation.

H.J.R. 108, Amending the constitution to allow Texas residents attending medical schools outside Texas to receive student loans.

The House has granted the request of the Senate for the appointment of a conference committee on Senate Bill No. 1235.

House Conferees: Salinas, McFarland, Washington, Vale, Coleman.

S.C.R. 111, Creating an interim committee to study special education.

H.C.R. 186, Expressing the support of the Governor of Texas in any action to relieve the burden of the federal flood plain insurance program.

The House has granted the request of the Senate for the appointment of a conference committee on Senate Bill No. 1226.

House Conferees: Grant, Allred, Looney, Kubiak, Untermeyer.

S.C.R. 110, Commending William B. Wilmot, Director of the Legal Staff of the Texas Legislative Council.

S.C.R. 99, Granting Texas and Pacific Railway Company permission to sue the state.

S.B. 146, Making federal criminal investigators state peace officers. (With amendment)

S.B. 1332, Relating to payment of jurors.

S.B. 180, Relating to longevity pay for sheriff deputies. (With amendment)

S.B. 489, Relating to theft of service. (With amendment)

S.B. 737, Relating to use of outside consultants by state agencies. (With amendment)

S.B. 788, Relating to annual reports filed by corporations. (With amendment)

S.B. 895, Validating annexation proceedings of certain cities.

All necessary rules suspended, and the House concurred in Senate amendments to H.B. No. 2257 by a record vote of 134 Ayes, 6 Noes, 2 Present Not Voting.

All necessary rules suspended, and the conference committee report on Senate Bill No. 1214 adopted by a non record vote.

All necessary rules suspended, and the conference committee report on Senate Bill No. 569 adopted by a non record vote.

Respectfully submitted,
BETTY MURRAY, Chief Clerk
House of Representatives

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was filed with the Secretary of the Senate:

Austin, Texas
May 28, 1977

Honorable William P. Hobby
Lieutenant Governor
President of the Senate
Austin, Texas

Honorable Bill Clayton
Speaker of the House of Representatives
Austin, Texas

Honorable Members of the Legislature
Austin, Texas

Honorable Lieutenant Governor, Honorable Speaker, and Honorable Members of the Legislature:

Today I am submitting as emergency matters the accompanying measures under the provisions of Article III, Section 5, of the Constitution of the State of Texas.

I urge your prompt consideration and enactment of these measures.

Respectfully submitted,
Dolph Briscoe
Governor of Texas

Austin, Texas
May 28, 1977

To the Members of the Sixty-fifth Legislature, Regular Session:

Pursuant to the Provisions of Article III, Section 5, of the Texas Constitution, I herewith submit as emergency matters, the following measures:

1. SJR 50, by Brooks, proposing an Amendment to the Texas Constitution;
2. SB 874, by Jones of Taylor, relating to issuing certificates of indebtedness by certain counties for the purpose of providing funds for jail facilities;
3. SB 1208, by Parker, relating to contracts between certain cities, towns, and districts, or nonprofit corporations;
4. SB 1306, by Creighton, relating to the authority of certain hospital authorities to sell property to other political subdivisions; and
5. SB 1311, by Truan, relating to creation of the Kleberg County Hospital District, of Kleberg County, Texas.

Respectfully submitted,
Dolph Briscoe
Governor of Texas

SENATE RESOLUTIONS ON FIRST READING

By unanimous consent, the following resolutions were introduced, read first time and referred to the Committee indicated:

S.C.R. 113 by Mengden Administration
Creating a special interim committee to review the statute creating the State Bar and survey the State Bar's responsibilities in regard to the regulation of the legal profession in Texas.

S.R. 784 by Adams Administration
Adding a new Rule 110 to the rules of the Senate of Texas.

S.R. 793 by Schwartz Administration
Directing the Senate Jurisprudence Committee to make an interim study of the dangers posed by railroad grade crossings.

S.R. 796 by Schwartz, Traeger Administration
Directing Jurisprudence Committee during the interim to study product liability.

HOUSE BILLS AND RESOLUTIONS ON FIRST READING

The following bills and resolutions received from the House, were read the first time and referred to the Committee indicated:

- H.C.R. 186**, To Committee on Administration
H.C.R. 184, To Committee on Administration.
H.C.R. 62, To Committee on Administration.
H.J.R. 3, To Committee on Finance.
H.B. 1138, To Committee on Education.
H.B. 2266, To Committee on Administration.
H.B. 1452, To Committee on Intergovernmental Relations.
H.J.R. 108, To Committee on Human Resources.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 60

Senator Brooks called from the President's table the Conference Committee Report on **S.B. 60**. (The Conference Committee Report having been filed with the Senate and read on Thursday, May 26, 1977.)

Senator Brooks moved that the Conference Committee Report be adopted.

Senator Sherman raised the Point of Order that in violation of Senate Rule 96(i) the Conference Committee Report does not contain a section-by-section analysis in parallel columns.

The President sustained the Point of Order.

SENATE BILL 754 WITH HOUSE AMENDMENTS

Senator Moore called **S.B. 754** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Floor Amendment No. 1

Amend **S.B. No. 754** by adding a new Section 5 and by renumbering subsequent sections, such new Section 5 to read as follows:

Sec. 5. Amend Chapter 352, Acts of the 50th Legislature, Regular Session, 1947, as amended (Art. 6228a, Vernon's Texas Civil Statutes) by adding a new Section 15 to read as follows:

"Sec. 15. It is expressly provided that creditable service and benefit rights established by or accrued to State officers and employees pursuant to Chapter 352, Acts of the 50th Legislature, Regular Session, 1947, as amended (Article 6228a, Vernon's Texas Civil Statutes) may not thereafter be diminished or impaired."

Floor Amendment No. 2

Amend **S.B. 754** page 4 line 10 and on page 3, line 20 by deleting "January 31" and inserting in lieu thereof: "April 30".

The amendments were read.

Senator Moore moved to concur in the House amendments.
The motion prevailed.

**CONFERENCE COMMITTEE REPORT ON SENATE BILL 1214
ADOPTED**

Senator Jones of Harris called from the President's table the Conference Committee Report on **S.B. 1214**. (The Conference Committee Report having been filed with the Senate and read on Thursday, May 26, 1977.)

On motion of Senator Jones of Harris, the Conference Committee Report was adopted by the following vote: Yeas 28, Nays 0.

Absent: Ogg, Santiesteban.

Absent-excused: Mengden.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 266 ADOPTED

Senator Mauzy called from the President's table the Conference Committee Report on **S.B. 266**. (The Conference Committee Report having been filed with the Senate and read on Friday, May 27, 1977.)

On motion of Senator Mauzy, the Conference Committee Report was adopted by the following vote: Yeas 23, Nays 5.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Doggett, Hance, Harris, Jones of Harris, Jones of Taylor, Kothmann, Longoria, Mauzy, McKnight, Meier, Parker, Patman, Schwartz, Sherman, Snelson, Truan, Williams.

Nays: Creighton, Farabee, Lombardino, Moore, Traeger.

Absent: Ogg, Santiesteban.

Absent-excused: Mengden.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 54 ADOPTED

Senator Doggett called from the President's table the Conference Committee Report on **S.B. 54**. (The Conference Committee Report having been filed with the Senate and read on Friday, May 27, 1977.)

Senator Doggett moved that the Conference Committee Report be adopted.

Senator Moore made the substitute motion that the Conference Committee Report not be adopted and that a new Conference Committee be appointed.

The substitute motion was lost by the following vote: Yeas 13, Nays 17.

Yeas: Adams, Aikin, Andujar, Braecklein, Creighton, Harris, Jones of Taylor, McKnight, Moore, Ogg, Santiesteban, Snelson, Williams.

Nays: Brooks, Clower, Doggett, Farabee, Hance, Jones of Harris, Kothmann, Lombardino, Longoria, Mauzy, Meier, Parker, Patman, Schwartz, Sherman, Traeger, Truan.

Absent-excused: Mengden.

The motion to adopt the Conference Committee Report prevailed by the following vote: Yeas 17, Nays 13.

Yeas: Brooks, Clower, Doggett, Farabee, Hance, Jones of Harris, Kothmann, Lombardino, Longoria, Mauzy, Meier, Parker, Patman, Schwartz, Sherman, Traeger, Truan.

Nays: Adams, Aikin, Andujar, Braecklein, Creighton, Harris, Jones of Taylor, McKnight, Moore, Ogg, Santiesteban, Snelson, Williams.

Absent-excused: Mengden.

SENATE RULE 96(g) SUSPENDED

Senator Ogg moved that Senate Rule 96(g) be suspended in order that the Senate might consider the Conference Committee Report on **S.B. 368** today.

The motion prevailed by the following vote: Yeas 28, Nays 2.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Creighton, Doggett, Farabee, Hance, Harris, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, McKnight, Meier, Moore, Ogg, Parker, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Truan, Williams.

Nays: Clower, Mauzy.

Absent-excused: Mengden.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 569 ADOPTED

Senator Ogg called from the President's table the Conference Committee Report on **S.B. 569**. (The Conference Committee Report having been filed with the Senate and read on Friday, May 27, 1977.)

On motion of Senator Ogg, the Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 368 ADOPTED

Senator Ogg called from the President's table the Conference Committee Report on **S.B. 368**. (The Conference Committee Report having been filed with the Senate and read on Friday, May 27, 1977.)

On motion of Senator Ogg, the Conference Committee Report was adopted.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 970 ADOPTED

Senator Parker called from the President's table the Conference Committee Report on **S.B. 970**. (The Conference Committee Report having been filed with the Senate and read on Wednesday, May 25, 1977.)

On motion of Senator Parker, the Conference Committee Report was adopted by the following vote: Yeas 26, Nays 4.

Yeas: Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Hance, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, Mauzy, McKnight, Meier, Ogg, Parker, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Truan, Williams.

Nays: Adams, Aikin, Harris, Moore.

Absent-excused: Mengden.

SENATE BILL 1246 WITH HOUSE AMENDMENTS

Senator Traeger called **S.B. 1246** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1

Amend **S.B. 1246** at page 1, line 12 by deleting the words "its uses and purposes" therein and inserting in lieu thereof the following:

the sole purpose of maintaining and preserving the historical character of the Alamo Shrine

Committee Amendment No. 2

Amend **S.B. 1246** at page 1, line 14, by deleting the words "use it as it sees proper" and inserting in lieu thereof the following:

Utilize it for the sole purpose of maintaining and preserving the historical character of the Alamo Shrine.

The amendments were read.

Senator Traeger moved to concur in the House amendments.

The motion prevailed.

SENATE CONCURRENT RESOLUTION 114

Senator Traeger offered the following resolution:

S.C.R. 114, Requesting the Governor to return **S.B. 875** to the House of Representatives for further consideration.

The resolution was read.

On motion of Senator Traeger and by unanimous consent, the resolution was considered immediately and was adopted.

SENATE CONCURRENT RESOLUTION 115

Senator Adams offered the following resolution:

S.C.R. 115, Recalling **H.B. 661** from the House of Representatives for further consideration.

The resolution was read.

On motion of Senator Adams and by unanimous consent, the resolution was considered immediately and was adopted.

SENATE BILL 443 WITH HOUSE AMENDMENTS

Senator Jones of Harris called **S.B. 443** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Floor Amendment No. 1

Amend quoted Section 9 of Section 1 of **S.B. 443** by adding the words "with the approval of the Commission and" after the word "shall" on line 22, page 3.

Floor Amendment No. 2

Amend quoted Section 18 of Section 1 of **S.B. 443** by deleting the words "or modified" on line 21, page 7.

Floor Amendment No. 3

Amend **S.B. 443** page 6 line 10 by striking the phrase "in the State of Texas."

The amendments were read.

Senator Jones of Harris moved to concur in the House amendments.

The motion prevailed.

SENATE BILL 519 WITH HOUSE AMENDMENTS

Senator Jones of Harris called **S.B. 519** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1

Conform the caption of **S.B. 519** to read as follows:

"relating to the ministerial practices and procedures in courts having jurisdiction over criminal matters in counties having a population in excess of 1,500,000 and nine or more courts in such county; providing for a presiding judge, selection of presiding judge, and duties and responsibilities of presiding judge; providing for local rulemaking power of courts; providing for the selection, qualifications, appointment, and compensation of a special judge; and declaring an emergency."

Committee Amendment No. 2

Amend **S.B. 519** by adding a new Subsection 1(c) to read as follows:

"(c) In the event that the judge of any court governed by the provisions of this Act is absent, or is for any cause disabled from presiding, the presiding judge of the courts may appoint a special judge whose qualifications shall be the same as the qualifications of the regular judge, and while serving the special judge shall have the

same duties and powers as the regular judge. The provisions of Articles 30.04, 30.05, and 30.06, Texas Code of Criminal Procedure, relating to the oath, compensation, and record of appointment of certain special judges, shall apply to the appointment of a special judge under this section.”

The amendments were read.

Senator Jones of Harris moved to concur in the House amendments.

The motion prevailed.

SENATE BILL 517 WITH HOUSE AMENDMENT

Senator Jones of Harris called **S.B. 517** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1

Amend **S.B. 517** by deleting the word “less” on page 2, line 1 and inserting in lieu thereof the word “more”.

The amendment was read.

Senator Jones of Harris moved to concur in the House amendment.

The motion prevailed.

SENATE BILL 440 WITH HOUSE AMENDMENTS

Senator Jones of Harris called **S.B. 440** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1

Substitute the following for S.B. No. 440:

A BILL TO BE ENTITLED

AN ACT

relating to the licensing and regulation of speech pathologists and audiologists; providing penalties; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. **PURPOSE.** It is the policy of this state that in order to safeguard the public health, safety, and welfare and to protect the public from unprofessional conduct by speech pathologists and audiologists, it is necessary to provide regulatory authority over persons offering speech pathology and audiology services to the public.

Sec. 2. **DEFINITIONS.** In this Act:

(1) "Committee" means the State Committee of Examiners for Speech Pathology and Audiology.

(2) "Person" means an individual, corporation, partnership, or other legal entity.

(3) (A) "Speech pathologist" means an individual who practices speech pathology, who makes a nonmedical evaluation, who examines, counsels, or provides habilitative or rehabilitative services for persons who have or are suspected of having speech, voice, or language disorders, and who meets the qualifications set forth in this Act.

(B) A person represents himself or herself to be a "speech pathologist" when such person holds himself or herself out to the public by a title or description of services incorporating the words "speech pathology," "speech pathologist," "speech therapy," "speech therapist," "speech correction," "speech correctionist," "speech and hearing therapy," "speech and hearing therapist," "speech and hearing specialist," "speech and hearing clinician," "language therapy," "language therapist," "voice pathology," "voice pathologist," "voice therapy," "voice therapist," "logopedics," "logopedist," "communicology," "communicologist," "aphasiologist," "phoniatrist," "speech clinician," "speech clinic," "speech center," or similar or related term or terms, titles, or description of services.

(4) "The practice of speech pathology" means the application of principles, methods, and procedures for the measurement, testing, evaluation, prediction, counseling, habilitation, rehabilitation, or instruction related to the development and disorders of speech, voice, or language for the purpose of rendering or offering to render an evaluation, prevention, or modification of these disorders and conditions in individuals or groups of individuals. Speech pathologists may perform the basic audiometric screening tests and hearing therapy procedures consistent with their training.

(5) (A) "Audiologist" means a person who practices audiology, who makes a nonmedical evaluation, who examines, counsels, or provides habilitative or rehabilitative services for persons who have or are suspected of having a hearing disorder, and who meets the qualifications set forth in this Act.

(B) A person represents himself or herself to be an "audiologist" when such person holds himself or herself out to the public by any title or description of services incorporating the terms "audiology," "audiologist," "audiometry," "audiometrist," "otometry," "otometrist," "hearing therapy," "hearing therapist," "hearing clinician," "hearing clinic," "hearing center," "audiological," "audiometrics," or similar or related terms, titles, or description of services, but shall not include a person engaging in the sale, repair, and calibration of audiometers, audiometric testing devices, and audiometric calibration equipment.

(6) "The practice of audiology" means the application of principles, methods, and procedures for the measurement, testing, appraisal, prediction, consultation, counseling, habilitation, rehabilitation, or instruction related to hearing and disorders of hearing for the purpose of rendering or offering to render services modifying communicative disorders involving speech, language, auditory function, or other aberrant behavior relating to hearing loss. An audiologist may engage in any tasks, procedures, acts, or practices that are necessary (A) for the evaluation of hearing or (B) for training in the use of amplification including hearing aids. An audiologist may participate in consultation regarding noise control and hearing conservation, may provide evaluations of environment or equipment in hearing conservation programs including calibration of equipment used in testing auditory functioning and hearing conservation, and may perform the basic speech and language screening tests and procedures consistent with his or her training.

(7) "Speech pathology aide" means a person who meets minimum qualifications which the committee may establish for speech pathology aides, and

who works under the direction of a licensed speech pathologist. The qualifications for licensure as a speech pathology aide shall be uniform and shall be less than those established by this Act as necessary for licensure as a speech pathologist.

(8) "Audiology aide" means a person who meets minimum qualifications which the committee may establish for audiology aides, and who works under the direction of a licensed audiologist. The qualifications for licensure as an audiology aide shall be uniform and shall be less than those established by this Act as necessary for licensure as an audiologist.

(9) "Board" means the State Board of Health Resources.

(10) "Department" means the State Department of Health Resources.

Sec. 3. ADMINISTRATION. (a) The State Committee of Examiners for Speech Pathology and Audiology is created within the department and is subject to all rules of the board. The committee consists of nine members appointed by the governor, with the advice and consent of two-thirds of the members of the senate present and voting, a quorum being present, to take office on the effective date of this Act. Members of the committee shall have been residents of the State of Texas for two years immediately preceding appointment and shall be representative of varying geographic regions of the state and from varying employment settings. Six members shall have been engaged in rendering services, teaching, or research in speech pathology or audiology for at least five years and shall meet the qualifications for licensure under Section 10 of this Act. Of these six members, four members shall be speech pathologists and two members shall be audiologists. Except for the initial appointees, all six shall hold valid licenses under this law. Two shall be public members, one of whom is a licensed physician board-certified in otolaryngology or pediatrics; the remaining public member, an interested citizen, may not be a licensee of the committee or of the department. The members of the committee shall serve until the expiration of the term to which they have been appointed or until their successors have qualified.

(b) The initial appointments shall be determined by lot as follows: three members are appointed for terms which expire January 31, 1979; three members are appointed for terms which expire January 31, 1981, and three members are appointed for terms which expire January 31, 1983. After the initial appointments, members are appointed for terms of six years expiring on January 31 of odd-numbered years.

(c) The committee shall organize annually and select a chairperson who, except for the initial chairperson, shall hold a valid license under this Act, a vice-chairperson, and a secretary-treasurer. The initial chairperson shall be one who meets the qualifications for licensing under this Act.

(d) Five members of the committee constitute a quorum to do business.

(e) No person may be appointed to serve more than two consecutive terms.

(f) The committee shall hold at least one regular meeting each year at which time an examination as defined in Section 12 of this Act shall be offered. Additional meetings may be held on the call of the chairperson or at the written request of any three members of the committee. At least 14 days advance notice of committee meetings is required.

Sec. 4. DUTIES AND POWERS. (a) The committee shall administer, coordinate, and enforce the provisions of this Act, evaluate the qualifications of applicants, and supervise the examination of applicants. The committee may issue subpoenas, examine witnesses, and administer oaths under the state laws of Texas, and it shall investigate persons engaging in practices that violate the provisions of this Act, subject to the approval of the board.

(b) The committee shall conduct hearings and keep records and minutes necessary to an orderly dispatch of the administration of this Act, subject to the approval of the board.

(c) The committee shall adopt reasonable rules commensurate with the provisions of this Act, including rules that establish ethical standards of practice, and the committee may amend or repeal the rules adopted by it, all subject to the approval of the board.

(d) A person who holds a license to practice speech pathology or audiology in this state is governed and controlled by the rules adopted by the committee and approved by the board.

(e) The conferral or enumeration of specific powers elsewhere in this Act shall not be construed as a limitation of the general powers conferred by this section.

(f) The committee shall be represented by the attorney general and the district and county attorneys of this state.

(g) Officers and employees directly responsible for handling money paid to the committee shall execute a performance bond as required by the committee. The premium for the bond shall be paid from committee funds.

(h) The committee may appoint subcommittees to work under its jurisdiction, subject to the approval of the board.

Sec. 5. COMPENSATION AND PAYMENT OF EXPENSES OF COMMITTEE. (a) The committee members receive no compensation for their services, but they may receive reimbursement for expenses incurred in the administration of this Act according to the payment and reimbursement policies of the department.

(b) All expenses incurred by the committee in the administration of the provisions of this Act shall be paid by warrants drawn on the State Treasury by the comptroller when vouchers are approved by the committee and department and are submitted through the department to the comptroller.

Sec. 6. EMPLOYEES OF THE COMMITTEE. The department shall provide such administrative and clerical employees as the department considers necessary to carry out the provisions of this Act.

Sec. 7. SEAL AND AUTHENTICATION OF RECORDS. The committee shall adopt a seal by which it shall authenticate its proceedings. Copies of the proceedings, records, and acts of the committee and certificates purporting to relate the facts concerning the proceedings, records, and acts, signed by the secretary-treasurer and authenticated by the seal, are prima facie evidence in all courts of this state.

Sec. 8. LICENSING AND REGULATION OF SPEECH PATHOLOGISTS AND AUDIOLOGISTS. (a) Licenses shall be granted either in speech pathology or audiology independently. Persons may be licensed in both areas if they meet the qualifications.

(b) No persons may practice or represent themselves as speech pathologists or audiologists in this state after December 31, 1977, unless they are licensed in accordance with the provisions of this Act.

(c) Any violation of this subsection shall constitute a deceptive trade practice.

Sec. 9. PERSONS AND PRACTICES NOT AFFECTED. (a) This Act does not prevent qualified persons licensed in this state under another law from engaging in the profession for which they are licensed.

(b) This Act does not prevent or restrict the activities and services and the use of an official title by persons holding a valid and current certification in speech and hearing therapy from the Central Education Agency if those persons perform speech pathology or audiology services solely as a part of their duties within an agency, institution, or organization under the jurisdiction of the Central Education Agency. If persons affected by this subsection perform work as speech pathologists or audiologists apart from their positions within an agency, institution, or organization of the Central Education Agency, they must have a license issued by the committee, except that a person affected by this subsection may perform speech and hearing

screening procedures without compensation without having a license issued by the committee.

(c) This Act does not restrict the activities and services of students or interns pursuing a course of study leading to a degree in speech pathology at a college or university accredited by the Southern Association of Colleges and Universities or its equivalent, provided that these activities and services constitute a part of their supervised course of study or internship year, that they are supervised by a person licensed under this Act, and that they are designated by a title such as "Speech Pathology Intern" or "Speech Pathology Trainee" or other title clearly indicating the training status appropriate to their level of training.

(d) This Act does not restrict activities and services of students or interns in audiology pursuing a course of study leading to a degree in audiology at a college or university accredited by the Southern Association of Colleges and Universities or its equivalent, provided that these activities and services constitute a part of their supervised course of study or internship year, that they are supervised by a person licensed under this Act, and that they are designated by a title such as "Audiology Intern" or "Audiology Trainee" or other title clearly indicating the training status appropriate to their level of training.

(e) This Act does not restrict the performance of speech pathology or audiology services in this state by a person not a resident of this state who is not licensed under this Act, if the services are performed for no more than five days in a calendar year and if the person meets the qualifications and requirements for application for licensure under this Act.

(f) This Act does not restrict the use of an official title by an individual teaching in a university or college training program, provided that the person is not engaged in the practice of speech pathology or audiology and does not supervise persons engaged in the practice of speech pathology or audiology.

(g) This Act does not permit a person to perform an act that would be in violation of Article 4510, Revised Civil Statutes of Texas, 1925, as amended. This Act does not permit a person to provide medical or surgical diagnosis or treatment of laryngeal or ear disorders.

(h) Nothing in this Act shall be construed as restricting or preventing a physician or surgeon from engaging in the practice of medicine in this state. This Act does not restrict speech or hearing testing or evaluation conducted by a licensed physician and surgeon or by a person under the control or supervision or at the instruction of one licensed to practice medicine in this state.

(i) This Act does not apply to persons employed by or responsible to the department in its programs concerned with hearing or speech services as long as they are performing duties under the jurisdiction of the department.

(j) This Act does not apply to a person who shows evidence of having completed training by the Texas Department of Health Resources in one of the hearing screening training programs approved by that agency, provided that all activities performed under this exception shall be limited to screening of hearing sensitivity.

(k) This Act does not license a person to select, fit, dispense or sell hearing aids as defined in Chapter 366, Acts of the 61st Legislature, Regular Session, 1969 (Article 4556-1.01, Vernon's Texas Civil Statutes), unless the person has been issued a license to engage in the selling of hearing aids by the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids.

(l) This Act does not prevent or restrict a person licensed by the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids from engaging in the practice of fitting and dispensing hearing aids as defined in Chapter 366, Acts of the 61st Legislature, Regular Session, 1969 (Article 4566-1.01, Vernon's Texas Civil Statutes).

(m) This Act does not prevent persons in an industrial setting from engaging in hearing testing as a part of a hearing conservation program in compliance with regulations of the Occupational Safety and Health Administration of the U.S. Department of Labor, the requirements of Article 5182a, 4477-1 and 459 of Vernon's Texas Civil Statutes, and the rules of the board promulgated pursuant to these statutes.

(n) This Act does not prevent or restrict speech or hearing sensitivity screening evaluations conducted by registered nurses licensed by the laws of this state and practicing in accordance with the standards of professional conduct and ethics promulgated by the rules and regulations of the Board of Nurse Examiners.

Sec. 10. QUALIFICATION OF APPLICANTS FOR LICENSE. To be eligible for licensing as a speech pathologist or audiologist, an applicant must:

(1) be of good moral character;

(2) possess at least a master's degree from an accredited or approved college or university;

(3) submit transcripts from one or more colleges or universities showing that a total of 60 semester hours of academic credit has been successfully completed and that the applicant has obtained no less than the following:

(A) 12 semester hours in courses which provide information that pertains to normal development and use of speech, language, and hearing;

(B) 30 semester hours in courses that provide information about and training in evaluation and management of speech, language, and hearing disorders, at least 24 of which are in courses in the professional area for which the license is requested and at least six semester hours in audiology for the license in speech pathology or in speech pathology for the license in audiology and no more than six semester hours in courses that provide credit for clinical practice obtained during academic training;

(C) credit for study of information pertaining to related fields that augment the work of the clinical practitioner of speech pathology or audiology sufficient to bring the applicant's total credit up to 60 hours; and

(D) 30 semester hours in courses that are acceptable toward a graduate degree by the college or university in which they are taken, 21 of which are within the 24 semester hours required in the professional area for which the license is requested or within the six semester hours required in the other professional area regulated by this Act;

(4) have completed a minimum of 300 clock hours of supervised clinical experience with individuals who present a variety of communication disorders, and this experience must have been obtained within his or her training institution or in one of its cooperating programs;

(5) have obtained the equivalent of nine months of full-time supervised professional experience in which bona fide clinical work has been accomplished in the major professional area for which the license is being sought under the supervision of a qualified person acceptable to the committee and must have begun after completion of the academic and clinical experiences required by this section.

Sec. 11. APPLICATION FOR LICENSE. Each person desiring a license under this Act shall make application to the committee on a form and in the manner the committee prescribes. The application shall be accompanied by the application fee which may not be refunded by the committee.

Sec. 12. EXAMINATION. (a) Each applicant shall be examined by the committee and shall pay to the committee, at least 30 days prior to the date of examination, an examination fee prescribed by the committee, which is not refunded. The examination shall be given at least twice each year at a time and place established by and under the supervision of the committee.

(b) The committee may examine by written or oral examination or by both. The committee shall maintain a record of all examination scores for at least two years after the date of examination.

(c) Standards for acceptable performance shall be determined by the committee.

(d) The committee may examine in whatever theoretical or applied fields of speech pathology or audiology it deems appropriate. It may examine the candidates with regard to their professional skills and their judgment in the utilization of speech pathology or audiology techniques or methods.

(e) Persons who fail the examination may be examined at a subsequent time if they pay another application and examination fee. No applicant who has taken and failed to pass two examinations may take the examination until that person has presented evidence to the committee of additional study in the area for which licensure is sought.

(f) The committee may waive the examination for applicants who:

(1) present proof of current licensure in another state, including the District of Columbia, or territory of the United States which maintains professional standards considered by the committee to be equivalent to those set forth in this Act; or

(2) hold the Certificate of Clinical Competence of the American Speech and Hearing Association in the area for which a license is being sought.

Sec. 13. LICENSING UNDER SPECIAL CONDITIONS. (a) The committee, on request, must waive educational, professional experience, and examination requirements for licensure in speech pathology for applicants who hold a baccalaureate or graduate degree, are fully certified by the Central Education Agency in speech and hearing therapy or in the judgment of the committee have met equivalent requirements, and within two years prior to the effective date of this Act were engaged in the practice of speech pathology on proof of practice of speech pathology, presented to the committee in the manner prescribed by the committee's rules, provided they file an application for licensure with the committee or the Director of Health Resources within 90 days from the effective date of this Act. Such licenses shall be issued without delay and shall be renewed in the same manner as licenses granted under other provisions of this Act.

(b) The committee, on request, shall waive educational, professional experience, and examination requirements for licensure in audiology for applicants who, on the effective date of this Act, hold a baccalaureate or graduate degree and have successfully completed 21 semester hours of course work in audiology, and are engaged in the practice of audiology on proof of bona fide practice of audiology presented to the committee in the manner prescribed by the committee's rules, provided they file an application for licensure with the committee or the Director of Health Resources within 90 days from the effective date of this Act.

(c) The committee may waive the examination and grant licensure to an applicant who presents proof of current licensure in another state, including the District of Columbia, or territory of the United States which maintains professional standards considered by the committee to be equivalent to those set forth in this Act.

(d) The committee may waive the examination and grant licensure to an applicant who holds the Certificate of Clinical Competence of the American Speech and Hearing Association or has met equivalent requirements in the area for which a license is sought.

Sec. 14. ISSUANCE OF LICENSE. (a) The committee, subject to the approval of the board, shall issue a license to an applicant who meets the requirements of this Act and who pays to the department the initial license fee.

(b) A temporary certificate of registration may be applied for by a person who fulfills the requirements of Section 10 of this Act and who has not previously applied to take the examination provided under Section 12 of this Act.

(c) On receiving an application provided for under Subsection (b) of this section accompanied by the application fee, the committee shall issue a temporary certificate of registration which entitles the applicant to practice audiology or speech

pathology for a period ending eight weeks after the conclusion of the next examination given after the date of issue.

Sec. 15. RENEWAL OF LICENSE. (a) Each licensed speech pathologist or audiologist shall annually on or before January 30 pay to the committee a fee for a renewal of his license. A 30-day grace period shall be allowed after January 30. After expiration of the grace period, the committee may renew each license after payment of a penalty set by the committee. No person who applies for renewal within two years after the date of expiration of the license may be required to submit to an examination as a condition to renewal.

(b) Persons who fail to renew their license within two years after the date of its expiration may not renew it, and it may not be restored, reissued, or reinstated thereafter, but those persons may apply for and obtain a new license if they meet the requirements of this Act.

(c) Within three years of the effective date of this Act, renewal of a license is contingent on the applicant's meeting uniform continuing education requirements established by the committee. These continuing education requirements must be of such a nature that they can be met without necessitating an extended absence from the licensee's county of residence. Notice of continuing education requirements shall be sent to all persons licensed under this Act at least 12 months prior to the time that the person's license renewal is dependent on completion of the requirements. Continuing education requirements shall be sent to new applicants with the forms on which they are to apply for licensure. Notification of changes in continuing education requirements shall be sent to persons licensed under this Act at least one year prior to the date on which the new requirements become effective.

(d) A suspended license is subject to expiration and may be renewed as provided in this Act, but the renewal does not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity or in any other activity or conduct in violation of the order or judgment by which the license was suspended. A license revoked on disciplinary grounds is subject to expiration as provided in this Act, but it may not be renewed. If it is reinstated after its expiration, the licensee, as a condition of reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last preceding regular renewal date before the date on which it is reinstated, plus the delinquency fee, if any, accrued at the time of the license revocation.

(e) All licenses expire and become invalid one year from the date of issuance if not renewed.

Sec. 16. FEES. The amount of fees initially prescribed in connection with a license as a speech pathologist or audiologist shall not exceed the following:

- | | |
|----------------------------|------|
| (1) Application fee: | \$50 |
| (2) Examination fee: | \$25 |
| (3) Initial license fee: | \$50 |
| (4) License renewal fee: | \$25 |
| (5) Delinquency fee: | \$25 |
| (6) Temporary license fee: | \$15 |
| (7) Duplicate license fee: | \$10 |

The committee, subject to the board's approval, shall adjust the amount of the fees to be sufficient to meet the expenses of administering this Act without unnecessary surpluses. Such surpluses, if any, are reserved for the use of the department for the committee.

Sec. 17. DENIAL, SUSPENSION, AND REVOCATION. (a) The board, upon recommendation by the committee, may refuse to issue a license to an applicant or may suspend or revoke the license of any licensee for any of the following causes:

(1) obtaining a license by means of fraud, misrepresentation, or concealment of material facts;

(2) selling, bartering, or offering to sell or barter a license or certificate of registration;

(3) unprofessional conduct that has endangered or is likely to endanger the health, welfare, or safety of the public, as defined by the rules established by the committee and approved by the board, or violation of the code of ethics adopted and published by the committee and approved by the board;

(4) violating any lawful order of the committee or board, or rule adopted by the committee and approved by the board;

(5) violating any provision of this Act.

(b) The board, upon recommendation of the committee, shall deny an application for, or suspend or revoke, or impose probationary conditions on, a license as ordered by the board in any decision made after hearing as provided in this Act. One year from the date of revocation of a license under this Act, application may be made to the board for reinstatement. The board shall have discretion to accept or reject an application for reinstatement and may require an examination for the reinstatement.

(c) A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of an offense involving moral turpitude is deemed to be a conviction within the meaning of this Act. At the direction of the board the license may be suspended or revoked, or the board may decline to issue a license when the time for appeal of the conviction has elapsed or the judgment or conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence regardless of a subsequent order allowing a person to withdraw such person's plea of guilty, or setting aside the verdict of guilty, or dismissing the information or indictment.

(d) The committee shall promulgate and recommend to the board rules covering the provisions of this section, and all actions by the committee under this section are subject to the approval of the board.

(e) The board may, with the exception of its rulemaking powers, delegate all of its powers under this section to the committee.

Sec. 18. **PENALTIES.** (a) A person who violates any of the provisions of this Act is guilty of a misdemeanor and on conviction may be punished by confinement in the county jail not exceeding six months, or by a fine not exceeding \$1,000, or by both.

(b) If a person other than a licensed speech pathologist or audiologist has engaged in any act or practice which constitutes an offense under this Act, a district court of any county, on application of the committee, may issue an injunction or other appropriate order restraining such conduct.

Sec. 19. **PROCEDURES FOR DENIAL, REVOCATION, OR SUSPENSION OF A LICENSE.** (a) A person whose application for a license is denied is entitled to a hearing before the board if such person submits a written request to the board.

(b) Proceedings for revocation or suspension of a license shall be commenced by filing charges with the board in writing and under oath. The charges may be made by any person or persons.

(c) The board shall fix a time and place for hearing and shall cause a written copy of the charges or reason for denial of a license, together with a notice of the time and place fixed for the hearing, to be served on the applicant requesting the hearing or the licensee against whom the charges have been filed at least 20 days prior to the date set for the hearing. Service of charges and notice of hearing may be given by certified mail to the last known address of the licensee or applicant.

(d) At the hearing the applicant or licensee has the right to appear either personally or by counsel, or both, to produce witnesses, to have subpoenas issued by the board, and to cross-examine opposing or adverse witnesses.

(e) The board shall determine the charges on their merits and enter an order in a permanent record setting forth the findings of fact and conclusions of law, together with the action taken. A copy of the order of the board shall be mailed to the applicant or licensee at such person's last known address by certified mail.

(f) An individual whose application for a license has been refused or whose license has been cancelled, revoked, or suspended by the board may take an appeal, within 20 days after the order is entered, to any district court of Travis County or to any district court of the county of his or her residence.

(g) A case reviewed under the provisions of this section proceeds in the district court by trial de novo in the same manner as an appeal to the county court from the justice of the peace court.

(h) In all appeals prosecuted in any of the courts of this state pursuant to the provisions of this Act, such trials shall be de novo as that term is used and understood in appeals from justice of the peace courts to county courts. Under no circumstances shall the substantial evidence rule as interpreted and applied by the courts in Texas in other cases ever be used or applied to appeals prosecuted under the provisions of this Act.

(i) The board shall promulgate rules covering procedures for denial, revocation, or suspension of a license under this section, and all actions of the committee are subject to the rules of the board.

(j) The board may, with the exception of its rulemaking powers, delegate all of its powers under this section to the committee.

Sec. 20. **DISPOSITION OF FUNDS RECEIVED.** (a) The department shall receive and account for all money derived under this Act and shall pay the money to the State Treasury which shall keep it in a separate fund to be known as the speech pathology and audiology fund. The department may make the expenditures from this fund for any purpose which is reasonably necessary to implement the provisions of this Act.

(b) After September 1, 1978, all expenses for the administration of the Act shall be paid from fees collected by the committee under this Act, and fees paid to the speech pathology and audiology fund are allocated to the committee for that purpose.

(c) Funds shall be appropriated to the department for the implementation of this Act, said funds coming from the General Revenue Fund for the first year.

Sec. 21. **REVENUE.** The department shall report to the state comptroller at the beginning of each month the amount and source of all revenue received by it during the preceding month, and at that time shall pay the entire amount thereof into the speech pathology and audiology fund.

Sec. 22. **EXEMPTIONS FROM THE BASIC SCIENCE LAW.** The provisions of Chapter 95, Acts of the 51st Legislature, Regular Session, 1949, as amended (Article 4590c, Vernon's Texas Civil Statutes), do not apply to audiologists or speech pathologists duly qualified and licensed under this Act who confine their activity to the areas specified in this Act.

Sec. 23. **SUNSET PROVISION.** Unless reenacted, the provisions of this Act shall be without effect after August 31, 1987.

Sec. 24. **POWERS AND DUTIES OF THE DEPARTMENT.** All duties, powers, and authority conferred on the committee by this Act and all practices and procedures of the committee are subject to the supervision and approval of the board, which shall have the powers necessary to prescribe and promulgate rules as the board deems reasonable and necessary to supervise and control the duties, powers, authority, practices, and procedures of the committee.

Sec. 25. **ARTICLE 4590f, VERNON'S TEXAS CIVIL STATUTES.** Nothing in this Act shall be construed as conflicting in any manner with the provisions of Article 4590f, Vernon's Texas Civil Statutes, but if any provision of this Act does conflict with Article 4590f, the provisions of Article 4590f will prevail.

Sec. 26. **EFFECTIVE DATE.** This Act is effective September 1, 1977.

Sec. 27. **SEVERABILITY.** If any portion of this Act or the application thereof to any person, case, or circumstance is held invalid, such invalidity shall not affect other provisions or application of the Act which can be given effect without the invalid provision or application, and this end the provisions of this Act are declared to be severable.

Sec. 28. **EMERGENCY.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Amendment No. 1

Amend C.S.S.B. No. 440 by deleting all of subsection (k) of Section 9 on pages 10 and 11 and substituting therefore the following:

"Persons licensed under this Act cannot dispense or sell hearing aids or be otherwise compensated for a hearing aid unless licensed by the Board of Examiners in the Fitting and Dispensing of Hearing Aids pursuant to Chapter 366, Acts of the 61st Legislature, Regular Session, 1969 (Article 4566-1.01, Vernon's Texas Civil Statutes). Any payment to licensees under this Act shall be for professional services rendered only.

Amendment No. 2

Amend S.B. No. 440 as follows:

(1) Strike "December 31, 1977" on page 8, lines 6 and 7 and substitute "April 30, 1978".

(2) Strike "September 1, 1977" on page 23, lines 26 and 27 and substitute "January 1, 1978".

Amendment No. 3

Amend S.B. 440 by deleting the word "Central" wherever it appears as Central Education Agency and substitute therefore the word "Texas".

Amendment No. 4

Amend C.S.S.B. 440 by adding the following at the end of Section 15(c):

"Inservice training programs provided by Independent School Districts and approved by the Committee shall be acceptable for the continuing education requirements in this Act."

Amendment No. 5

Amend C.S.S.B. 440 by deleting Section (B) page 17 and substituting the language as follows:

(B) Persons who fail to renew their license within two years after the date of its expiration may renew it, and it may be restored, or reissued.

Amendment No. 6

Amend **H.C.S.S.B. 440** by deleting all of Subsection (e) of Sec. 17.

Amendment No. 7

Amend **H.C.S.S.B. 440** by deleting all of Subsec. (j) of Sec. 19.

The amendments were read.

Senator Jones of Harris moved to concur in the House amendments.

The motion prevailed.

RECORD OF VOTE

Senator Patman asked to be recorded as voting "Nay" on the motion to concur in the House amendments.

SENATE BILL 857 WITH HOUSE AMENDMENTS

Senator Jones of Harris called **S.B. 857** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1

Amend **S.B. 857** by adding on line 19, page 2, between the words "Education," and "a" the following:

"a public institution of higher education and foundations chartered for the benefit of such institutions or any component part thereof,"

Committee Amendment No. 2

Amend **S.B. 857** by adding a paragraph "(5)" in quoted Section "E" as it appears in "Section 1" of the bill to read as follows:

"(5) a trade association or professional society whose income is principally derived from membership dues and assessments, sales or services."

Committee Amendment No. 3

Amend **S.B. 857** by adding a new subparagraph, designated "(6)", at the end of Paragraph "E" and before the beginning of "Sec. 2.", on page 2 of **S.B. 857**, and which said new subparagraph "(6)" shall read as follows:

"(6) Any insurer licensed and regulated by the State Board of Insurance."

Committee Amendment No. 4

Amend S.B. No. 857 by adding a new paragraph, designated "(7)", in Subsection E, in quoted Article 2.23A in Section 1 to read as follows:

"(7) An organization whose charitable activities relate to public concern in the conservation and protection of wildlife, fisheries and allied natural resources."

Committee Amendment No. 5

Amend Section 1 of S.B. 857 by adding to Article 2.23A the following Subsection E(7):

"(7) An alumni association of a public or private institution of higher education in this state, provided that such association is recognized and acknowledged by the institution as its official alumni association."

Committee Amendment No. 6

Amend S.B. 857 by deleting on page 2 line 26 the phrase "and activities are regularly conducted" and substitute the following phrase: "are the primary activity and such activities are regularly conducted."

The amendments were read.

Senator Jones of Harris moved to concur in the House amendments.

The motion prevailed.

SENATE BILL 210 WITH HOUSE AMENDMENTS

Senator Andujar called S.B. 210 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1

Amend S.B. 210, Sec. C, lines 20 and 21 by adding

"manufactured prior to 1940" after the word "was" and striking "at the time of the offense older than 35 years"

Floor Amendment No. 1

Amend S.B. 210 by deleting the period after the word "code" on line 23, page 1 and adding the following:

" , and that the party possessing the same:

(1) within thirty (30) days after coming into possession of same or the effective date of this amendment, whichever last occurs, furnished the following information to the sheriff of the county wherein such device is to be maintained:

(a) the name and address of the party possessing same

(b) the name of the manufacturer, date of manufacture and serial number of the device, if available, and

(2) within thirty (30) days of the transfer of such device advises the sheriff of the county to whom the information provided for in item (1) above was furnished of the name and address of the transferee.

The amendments were read.

Senator Andujar moved to concur in the House amendments.

The motion prevailed.

SENATE BILL 183 WITH HOUSE AMENDMENT

Senator Ogg called **S.B. 183** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1

Substitute the following for **S.B. 183** by Ogg

A BILL TO BE ENTITLED

AN ACT

relating to the circumstances under which a mental health patient may be detained without a court order; amending Section 27 of the Texas Mental Health Code, as amended (Article 5547-27, Vernon's Texas Civil Statutes).

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

"Section 27(a). Authority of Health or Peace Officer. Any health or peace officer, who has reason to believe and does believe upon the representation of a credible person, in writing, or upon the basis of the conduct of a person or the circumstances under which he is found that the person is mentally ill and because of his mental illness is likely to cause injury to himself or others if not immediately restrained, may upon obtaining a warrant from any magistrate, take such person into custody, and immediately transport him to the nearest hospital or other facility deemed suitable by the county health officer, except in no case shall a jail or similar detention facility be deemed suitable unless such jail or detention facility is specifically equipped and staffed to provide psychiatric care and treatment, and make application for his admission, pursuant to the warrant of the magistrate. Such person admitted upon such warrant may be detained in custody for a period not to exceed twenty-four (24) hours, unless a further written order is obtained from the County Court or Probate Court of such county, ordering further detention. Provided, however, that should the person be taken into custody after 12:00 o'clock noon on Friday, or on a Saturday or Sunday, or a legal holiday, then the twenty-four-hour period allowed for obtaining the court order permitting further detention shall begin at 9:00 o'clock a.m. on the first succeeding business day.

"(b) Any person licensed to practice medicine in this state, who has reason to believe and does believe that a person is mentally ill and because of such mental illness is likely to cause injury to himself or others if not immediately restrained may present such information in writing at any time to any magistrate and, if the facts so justify, the magistrate may issue a warrant ordering any health or peace officer to take such person into custody and immediately transport such person to the nearest

state hospital, hospital or other facility deemed suitable by such officer, except in no event shall a jail or similar detention facility be deemed suitable unless such jail or detention facility is specifically equipped and staffed to provide psychiatric care and treatment, and make application for admission for such person, pursuant to the warrant of the magistrate. Such person admitted upon such warrant may be detained in custody for a period not to exceed twenty-four hours, unless a further written order is obtained from the county court or probate court of such county, ordering further detention. Provided, however, that should the person be taken into custody after 12:00 o'clock noon on Friday, or on a Saturday or Sunday, or a legal holiday, then the twenty-four period allowed for obtaining the court order permitting further detention shall begin at 9:00 o'clock a.m. on the first succeeding business day."

Sec. 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Ogg moved to concur in the House amendment.

The motion prevailed.

SENATE BILL 182 WITH HOUSE AMENDMENT

Senator Ogg called **S.B. 182** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1

Substitute the following for S.B. No. 182

A BILL TO BE ENTITLED

AN ACT

relating to requirements for obtaining authorization for a warrant or order of protective custody and admission of a mentally ill person to a hospital or other facility; amending Section 27 and 28 of the Texas Mental Health Code, as amended, (Articles 5547-27 and 28, Vernon's Texas Civil Statutes).

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Section 27 of the Texas Mental Health Code, as amended (Article 5547-27, Vernon's Texas Civil Statutes) is amended by adding a new Section 27(a) to read as follows:

"Article 5547-27(a). Any person licensed to practice medicine in this state, who has reason to believe and does believe that a person is mentally ill and because of such mental illness is likely to cause injury to himself or others if not immediately restrained may present such information in writing at any time to any magistrate and, if the facts so justify, the magistrate may issue a warrant ordering any health or peace officer to take such person into custody and immediately transport such person to the nearest state hospital, hospital or other facility deemed suitable by

such officer, except in no event shall a jail or similar detention facility be deemed suitable unless such jail or detention facility is specifically equipped and staffed to provide psychiatric care and treatment, and make application for admission for such person, pursuant to the warrant of the magistrate. Such person admitted upon such warrant may be detained in custody for a period not to exceed twenty-four hours, unless a further written order is obtained from the county court or probate court of such county, ordering further detention. Provided, however, that should the person be taken into custody on a Saturday or Sunday, or a legal holiday, then the twenty-four hour period allowed for obtaining the court order permitting further detention shall begin at 9:00 o'clock a.m. on the first succeeding business day."

Section 2. Section 28 of the Texas Mental Health Code, as amended (Article 5547-28, Vernon's Texas Civil Statutes), is amended to read as follows:

Section 28. EMERGENCY ADMISSION "the head of a mental hospital, a general hospital, or facility deemed suitable by the county health officer shall not admit nor detain any person for emergency observation and treatment unless:

"(a) A warrant has been obtained from a magistrate ordering the apprehension and taking into custody of such person to be admitted, or an order of protective custody has been issued pursuant to Section 66 of this Code; and

"(b) ~~[A written application is made by a health or peace officer who has such person in his custody stating the circumstances under which the person was taken into custody and the officer's belief and the reasons therefor that the person is mentally ill and that because of his mental illness is likely to cause injury to himself or others if not immediately restrained,~~

(e)] A written and certified opinion is made by the medical officer on duty at the hospital or other facility, that after a preliminary examination, the person has symptoms of mental illness and is likely to cause injury to himself or others if not immediately restrained."

Sec. 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Ogg moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **S.B. 182** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Ogg, Farabee, Parker, Andujar and Traeger.

SENATE BILL 882 WITH HOUSE AMENDMENTS

Senator Ogg called **S.B. 882** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Floor Amendment No. 1

Amend **S.B. 882** by deleting on page 2, lines 4 through 8, the words “the amount of money, if any, by which the total sum of money paid to the issuer for such an issue or series is less than the principal amount (par value) thereof, after subtracting any accrued interest to the date of delivery.” and substituting “the principal amount (par value) of such issue or series plus any accrued interest to the date of delivery minus the total sum of money paid to the issuer.”

Floor Amendment No. 2

Amend **S.B. 882** by deleting on page 2, lines 9 through 12, the words “the amount of money, if any, by which the total sum of money paid for such an issue or series is greater than the principal amount (par value) thereof, after subtracting any accrued interest to date of delivery.” and substituting “the total sum of money paid to the issuer for such an issue or series minus the principal amount (par value) thereof, and also minus any accrued interest to the date of delivery.”

The amendments were read.

Senator Ogg moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 26, Nays 4.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Hance, Harris, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, McKnight, Meier, Moore, Ogg, Parker, Santiesteban, Schwartz, Snelson, Traeger, Williams.

Nays: Mauzy, Patman, Sherman, Truan.

Absent-excused: Mengden.

SENATE BILL 366 WITH HOUSE AMENDMENT

Senator Ogg called **S.B. 366** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1

Amend **S.B. 366** page 2 line 7 by adding a new subsection (d) to read as follows:

This exemption shall apply only to the equipment modifying the vehicle.

The amendment was read.

Senator Ogg moved that the Senate do not concur in the House amendment, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on S.B. 366 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Ogg, Doggett, Truan, Parker and Longoria.

SENATE BILL 1284 WITH HOUSE AMENDMENT

Senator Jones of Taylor called S.B. 1284 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1

Substitute the following for Senate Bill 1284:

A BILL TO BE ENTITLED

AN ACT

relating to clarifying that certain tangible personal property need not be consigned to qualify for freeport protection; amending Section 1, Chapter 208, Acts of the 58th Legislature, Regular Session, 1963 (Article 7150f, Vernon's Texas Civil Statutes); and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Section 1, Chapter 208, Acts of the 58th Legislature, Regular Session, 1963 (Article 7150f, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 1. All property consigned to a consignee in this State from outside this State to be forwarded to a point outside this State, which is entitled under the tariffs, rules, and regulations approved by the Interstate Commerce Commission to be forwarded at through rates from the point of origin to the point of destination, if not detained within this State for a period of more than ninety (90) days, shall be deemed to be property moving in interstate commerce, and no such property shall be subject to taxation in this State. Goods, wares, ores, and merchandise [; provided, that goods, wares and merchandise, whether or not moving on through rates,] originating outside this State, whether consigned to or owned by a taxpayer, [shall be deemed to move in interstate commerce,] shall be deemed to be located in this State for only a temporary 9period, do not acquire taxable situs in this State, and are not subject to taxation in this State if not detained more than nine (9) months and if such goods, wares, ores and merchandise [where such goods, wares and merchandise] are so held for assembly, storage, manufacturing, processing or fabricating purposes. It is further provided [; providing further] that personal property] originating outside this State and transported in this State [consigned] for sale within this State must be assessed as any other personal property. Provided further, that all laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict only."

Sec. 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity

that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Jones of Taylor moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 14, Nays 13.

Yeas: Andujar, Brooks, Creighton, Farabee, Hance, Jones of Harris, Jones of Taylor, Lombardino, Meier, Ogg, Parker, Santiesteban, Schwartz, Traeger.

Nays: Aikin, Braecklein, Clower, Doggett, Harris, Kothmann, Longoria, Mauzy, Patman, Sherman, Snelson, Truan, Williams.

Absent: Adams, McKnight, Moore.

Absent-excused: Mengden.

SENATE BILL 815 WITH HOUSE AMENDMENT

Senator Jones of Taylor called **S.B. 815** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment No. 1

Amend **S.B. 815**, quoted Article 7174 by striking the language in paragraph (d), and submitting therefor the following language:

“(d) An interest in a mineral which may be removed by surface mining or quarrying from a deposit that is not being produced shall be valued at the price for which the interest would sell while the mineral is in place and not being produced. The value shall be determined by applying a per acre value to the number of acres covered by the interest. The aggregate of the value of such an interest, and all other interests that, if not under separate ownership, would constitute a fee simple estate in any real property, may not exceed the value which would be placed upon the fee estate, if the interest in minerals were not owned separately.”

The amendment was read.

Senator Jones of Taylor moved to concur in the House amendment.

The motion prevailed.

SENATE BILL 148 WITH HOUSE AMENDMENTS

Senator Farabee called **S.B. 148** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Amendment No. 1

Amend **S.B. 148** by inserting the following between the period and the word "The" on line 2, page 3:

"The signature of the declarant shall be acknowledged, and the witnesses shall subscribe and swear to the directive before a notary public."

Amendment No. 2

Amend **S.B. 148** by adding the following between lines 11 and 12 on page 4:

"7. I understand that I may revoke this directive at any time."

Amendment No. 3

Amend **S.B. 148** by inserting the following after the period on line 15, page 4:

"I am not related to the declarant by blood or marriage, nor would I be entitled to any portion of the declarant's estate on his decease, nor am I the attending physician of declarant or an employee of the attending physician or a health facility in which declarant is a patient, or any person who has a claim against any portion of the estate of the declarant upon his decease."

Amendment No. 4

Amend Committee Amendment No. 3 to **S.B. No. 148** by adding the following on the 5th line after the word "patient," and before the word "or":

"or a patient in the health care facility in which the declarant is a patient,"

Amendment No. 5

Amend Committee Amendment No. 4 to **S.B. 148** by deleting all of that amendment and substituting therefor the following:

Insert the following between the lines 17 and 18 on page 4:

"State of Texas
County of _____

Subscribed and acknowledged before me by the said _____, declarant, and subscribed and sworn to me before me by the said _____ and _____, witnesses, this day of _____, A.D. _____.

(signed)

Notary Public

County, Texas
My commission expires: _____"

Amendment No. 6

Amend Committee Amendment No. 5 to S.B. No. 148 by deleting all of that amendment and substituting therefore the following:

Insert the following between lines 17 and 18 on page 4:

STATE OF TEXAS
COUNTY OF _____

Before me, the undersigned authority, on this day personally appeared _____, _____, and _____, known to me to be the declarant and witnesses whose names are subscribed to the foregoing instrument in their respective capacities, and, all of said persons being by me duly sworn, the declarant, _____, declared to me and to the said witnesses in my presence that said instrument is his Directive to physicians, and that he had willingly and voluntarily made and executed it as his free act and deed for the purposes therein expressed.

(Declarant)

(Witness)

(Witness)

Subscribed and acknowledged before me by the said Declarant, _____, and by the said witnesses, _____, _____, and _____, on this _____ day of _____, 19 ____.

Notary Public in and for
_____ County, Texas

Amendment No. 7

Amend S.B. 148, Section 6, by adding to that section the following:

“No physician, health care facility, or health care professional be liable either civilly or criminally for failure to act pursuant to the declarants directive where such physician, health care facility or health care professional had no knowledge of such directive.”

Amendment No. 8

Amend S.B. 148 by changing the period to a comma on line 16, page 8 and adding the following:

“nor may the execution or failure to execute a directive be considered in any way in establishing the premiums for insurance.”

Amendment No. 9

Amend S.B. 148 by striking the words: ", except where justified or excused by law," on line 20, page 8.

Amendment No. 10

Amend S.B. No. 148 by making the following changes in Section 2 of the bill:

- (1) On line 14, page 1 delete the word "to" and add the following after the word "assigned" and before the word "the":
"by the physician selected by,";
- (2) On line 20, page 1 delete the word "any" and substitute therefore the word "a";
- (3) On line 25, page 1 add the following after the comma:
"noted in the qualified patient's medical records,";
- (4) On line 8, page 2 add the following after the second comma:
"and the other shall be chosen by the patient or the attending physician,"
; and
- (5) On line 9, page 2 add the word "each" between the words "have" and "personally".

Amendment No. 11

Amend S.B. No. 148 by making the following changes in Section 3 of the bill:

- (1) On line 17, page 2 add the following after the word "in" and before the word "a":
"the event of";
- (2) On lines 22 and 23 delete the following phrases:
"then existing", "at the time of the directive," and "then existing".
- (3) On line 26, page 2 add the following after the comma:
"a patient in a health care facility in which the declarant is a patient,";
- (4) On line 11, page 3 add the following after the word "incurable" and before the word "injury":
"condition caused by"
- (5) On line 15, page 3 add the word "attending" after the word "my" and before the word "physician".

Amendment No. 12

Amend S.B. No. 148 by making the following changes in Section 4 of the bill:

- (1) On line 26, page 4 delete the word "the" and substitute therefore the word "an";
- (2) Delete all of line 2 on page 5 and substitute therefore the following:
"behalf of the declarant or by mailing said revocation to an attending physician. An attending physician or his designee shall record in";
- (3) On lines 3 and 4, page 5 delete the phrase "nearest where such revocation was made,";
- (4) On line 5, page 5 add the following after the word "revocation" and before the semicolon:
"and shall enter the word 'VOID' on each page of the copy of the directive in the patient's medical records";

(5) On line 8, page 5 delete the first "the" and substitute therefore the word "an";

(6) On line 9, page 5 delete the capitalized word "The" and substitute therefore the word "An";

(7) On line 10, page 5 add the following after the word "physician" and before the word "shall":

"or his designee"

(8) On lines 10 and 11, page 5 delete the phrase "nearest where such revocation was made,";

(9) On line 13, page 5 add the following after the word "revocation" and before the period:

"and shall enter the word 'VOID' on each page of the copy of the of the directive in the patient's medical records";

(10) On line 14, page 5 add the following before the word "there":

"Except as otherwise provided in this Act,".

Amendment No. 13

Amend S.B. No. 148 deleting the period at the end of Section 5 on page 6 and adding the following:

"; but in any event shall terminate at the end of five years from the date of execution."

Amendment No. 14

Amend S.B. No. 148 by amending Section 7(a) to provide the following:

(1) On line 25, page 6 add the word "existing" after the word "the" and before the word "desires"; and

(2) On line 26, page 6 add the following after the word "patient" and before the period:

"and are communicated to the patient".

The amendments were read.

Senator Farabee moved to concur in House amendments.

The motion prevailed.

RECORD OF VOTES

Senators Lombardino, Longoria, Truan, Ogg, Patman, Snelson, Kothmann, Traeger and Braecklein asked to be recorded as voting "Nay" on the motion to concur in House amendments.

MOTION TO PLACE HOUSE BILL 1367 ON SECOND READING

Senator Moore moved to suspend the regular order of business to take up for consideration at this time:

H.B. 1367, Relating to the sale or exchange of certain property by the Texas Board of Corrections.

Senator Doggett raised the Point of Order that H.B. 1367 had not been properly posted, in violation of Senate Rule 103.

The President announced he would take the Point of Order under advisement.

Question - Shall the Point of Order be sustained?

HOUSE BILL 2248 ON SECOND READING

On motion of Senator Meier and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2248, A bill to be entitled An Act relating to the validation of certain governmental acts and proceedings by municipalities, counties, and independent school districts regarding paving contracts.

The bill was read second time and was passed to third reading.

RECORD OF VOTES

Senators Truan and Mauzy asked to be recorded as voting "Nay" on the passage of the bill to third reading.

HOUSE BILL 2248 ON THIRD READING

Senator Meier moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that H.B. 2248 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 2.

Yeas: Adams, Aikin, Andujar, Braecklein, Clower, Creighton, Doggett, Farabee, Hance, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, Meier, Moore, Ogg, Parker, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Williams.

Nays: Mauzy, Truan.

Absent: Brooks, Harris, McKnight.

Absent-excused: Mengden.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

RECORD OF VOTES

Senators Truan and Mauzy asked to be recorded as voting "Nay" on the final passage of the bill.

VOTE ON FINAL PASSAGE OF HOUSE BILL 661 RECONSIDERED

On motion of Senator Adams and by unanimous consent, the vote by which **H.B. 661** was finally passed was reconsidered.

Question - Shall **H.B. 661** be finally passed?

SENATE BILL 125 WITH HOUSE AMENDMENT

Senator Adams called **S.B. 125** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1

Amend quoted Section 1 on page 1 of S.B. No. 125 to read as follows:

"Section 1. There shall be and is hereby created a conservation and reclamation district by the name of Angelina and Neches River Authority. [~~Sabine Neches Conservation District (now Neches River Conservation District).~~] which district is created as a governmental agency, body politic and corporate, vested with all the authority as such under the Constitution and Laws of the State; and which shall have and be recognized to exercise all of the powers of such governmental agency and body politic and corporate as are expressly authorized in the provisions of the Constitution, Section 59 of Article 16, for districts created to conserve, store, control, preserve, utilize and distribute the storm and flood waters and the waters of the rivers and streams of the State, and such powers as may be contemplated and implied by the purposes of this provision of the Constitution, and as may be conferred by General Law, as well as by the provisions of this Act. Nothing [except nothing] herein contained shall authorize said district to levy any taxes or special assessments, or to create any debt payable out of taxation. The district shall repay the State of Texas from funds received from sources other than the State of Texas in the amount of the appropriation made to the Neches River Conservation District, predecessor of the Angelina and Neches River Authority, in Chapter 659, Acts of the 63rd Legislature, Regular Session, 1973. The [and said] district shall have and be recognized to exercise all the rights and powers of an independent governmental agency, body politic and corporate, to construct, maintain and operate, in the valleys of the [Sabine and] Neches River [Rivers] and its [their] tributaries, within or without the boundaries of such district, any and all works deemed essential to the operation of the district and for its administration in the control, storing, preservation and distribution to all useful purposes of the waters of the [Sabine and] Neches River [Rivers] and its [their] tributary streams, including the storm and flood waters thereof; and such district shall have and be recognized to exercise such authority and power of control and regulation over such waters of the [Sabine and] Neches River [Rivers] and its [their] tributaries as may be exercised by the State of Texas, subject to the provisions of the Constitution and the Acts of the Legislature.

"The rights, powers, privileges, authority, and functions granted to the district and the district itself are expressly subject to Chapters 5, 6, 21, and 50, Water Code, as amended, to the extent these laws are presently applicable.

"In this Act, 'district' means the Angelina and Neches River Authority."

The amendment was read.

Senator Adams moved to concur in the House amendment.

The motion prevailed.

SENATE BILL 1248 WITH HOUSE AMENDMENTS

Senator Adams called **S.B. 1248** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1

Amend S.B. No. 1248 by deleting the words "directly or indirectly" in Section 1, Paragraph C, page 3, line 6.

Committee Amendment No. 2

Amend quoted new subsection (C), Section 1 of **S.B. 1248** by adding the following language after the word "advertising:"

"The provisions of this subsection shall not apply to any advertising which describes the factual reasons for a measure and which does not advocate the passage or defeat of such measure."

The amendments were read.

Senator Adams moved to concur in the House amendments.

The motion prevailed.

SENATE BILL 714 WITH HOUSE AMENDMENT

Senator Meier called **S.B. 714** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1

Amend S.B. No. 714 by striking all below the enacting clause and substituting the following:

Section 1. Chapter 10, Title 122, Revised Civil Statutes of Texas, 1925, as amended, is amended by adding Article 7345f to read as follows:

"Article 7345f. Right of Appeal by Property Owner.

"Section 1. A property owner is entitled to appeal a decision of any board of equalization to a district court of the State of Texas. A party who appeals to a district court must file a petition for review with the district court within 45 days after the tax roll containing the value involved is approved by the taxing authority.

"Section 2. Venue is in the county in which the board of equalization that made the decision is located.

"Section 3. Any party is entitled to a trial by jury on demand.

"Section 4. (a) The issue to be determined by the district court in an appeal is whether or not the value of the property in question as ascertained by the board of equalization is in error.

"(b) If the court or jury finds that the value as ascertained by the board of equalization is in error, meaning it is higher than the value set out by the property owner in a rendition filed prior to the board of equalization hearings as required by law, then the court or jury shall fix a value for the property in question as of January 1 of the tax year in controversy. In fixing the value of the property in question, the court or jury shall determine the cash market value and multiply that value by the assessment ratio, if any, in effect for the taxing authority involved.

"(c) The value affixed by the court or jury pursuant to Subsection (b) above shall be binding on the taxing authority or authorities involved in the lawsuit for the tax year in question and for the succeeding tax year. However, in the succeeding tax year the taxing authority may add the value of subsequent improvements to the property, if any, to the value affixed by the court or jury.

"Section 5. When established by a preponderance of the evidence, it shall be a defense to an appeal under this Article that the taxpayer failed to exercise good faith in estimating the cash market value set out in the rendition required in Subsection (b) of Section 4 of this Article. A taxpayer does not fail to exercise good faith for purposes of this section if he makes a good faith effort to estimate the cash market value of the property and the assessment ratio, if any, in effect for the taxing authority and renders the value determined by multiplying his estimate of cash market value by the assessment ratio. A taxpayer shall be required to file with the board of equalization a sworn affidavit, in addition to the rendition, prior to invoking the provisions of this Article but shall not be required to appear personally or by a representative.

"Section 6. The rights afforded taxpayers under this Article are cumulative and do not preempt other remedies granted by statute or evolving by common law.

"Section 7. The cause of action herein granted does not expand upon taxpayers' rights to sue for an injunction or restraining order as a member of a class. Rights granted hereunder are specifically prohibited from being the basis of injunctive or restraining order relief in a class action suit seeking to enjoin the putting into effect of a tax plan of a taxing authority."

Sec. 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Meier moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 25, Nays 1.

Yeas: Aikin, Andujar, Braecklein, Clower, Creighton, Doggett, Farabee, Hance, Harris, Jones of Harris, Kothmann, Lombardino, Longoria, Mauzy, Meier, Ogg, Parker, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Truan, Williams.

Nays: Adams.

Absent: Brooks, Jones of Taylor, McKnight, Moore.

Absent-excused: Mengden.

HOUSE BILL 1278 ON SECOND READING

On motion of Senator Schwartz and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1278, A bill to be entitled An Act authorizing an application for incorporation of a city or town to be made by at least 500 resident electors within an unincorporated area having a population, etc., and declaring an emergency.

The bill was read second time.

Senator Schwartz offered the following committee amendment to the bill:

Amend **H.B. 1278** by adding a new Section 4 to read as follows and renumbering the following sections accordingly:

"Sec. 4. The provisions of this Act shall not take effect until January 1, 1978. If, however, the unincorporated area described in Section 1 of this Act has been annexed by the principal city of the county wherein the unincorporated area lies; or, if, annexation proceedings have been initiated by the principal city after January 1, 1977 then all provisions of this Act shall be held void."

The committee amendment was read.

Senator Schwartz offered the following substitute for the committee amendment:

Amend **H.B. 1278** by adding a new Section 4 to read as follows and renumbering the present sections 4 and 5 accordingly:

"Sec. 4. The provisions of this Act shall not take effect until January 1, 1978. If, however, the unincorporated area described in Section 1 of this Act has been annexed by the principal city of the county wherein the unincorporated area lies; or, if, annexation proceedings have been initiated by the principal city after January 1, 1977 then all provisions of this Act shall be held void."

The substitute for the committee amendment was read and was adopted.

The committee amendment as substituted was then adopted.

On motion of Senator Schwartz and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

HOUSE BILL 1278 ON THIRD READING

Senator Schwartz moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1278** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent: Brooks, McKnight.

Absent-excused: Mengden.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 0.

Absent: Brooks, McKnight.

Absent-excused: Mengden.

MOTION TO PLACE HOUSE BILL 1367 ON SECOND READING

Senator Moore moved to suspend the regular order of business to take up for consideration at this time:

H.B. 1367, Relating to the sale or exchange of certain property by the Texas Board of Corrections.

Question - Shall the Point of Order be sustained?

The President sustained the Point of Order.

HOUSE BILL 1367 RECOMMITTED

On motion of Senator Moore and by unanimous consent, **H.B. 1367** was recommitted to the Committee on State Affairs.

SENATE RULE 103 SUSPENDED

On motion of Senator Moore and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on State Affairs might consider **H.B. 1367** today.

MOTION TO SUSPEND SENATE RULE 105

Senator Moore moved that Senate Rule 105 be suspended in order that the Committee on State Affairs might consider **H.B. 1367** today.

The motion was lost by the following vote (Not receiving two-thirds vote of the Members present): Yeas 13, Nays 12, Present-Not Voting 1.

Yeas: Aikin, Andujar, Braecklein, Creighton, Hance, Harris, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Moore, Traeger, Williams.

Nays: Clower, Doggett, Farabee, Longoria, Mauzy, Mcier, Parker, Patman, Santiesteban, Schwartz, Sherman, Truan.

Present-Not Voting: Adams.

Absent: Brooks, McKnight, Ogg, Snelson.

Absent-excused: Mengden.

SENATE RULE 103 SUSPENDED

On motion of Senator Adams and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Administration might consider **H.B. 2266** today.

HOUSE BILL 178 ON SECOND READING

Senator Meier moved to suspend the regular order of business to take up for consideration at this time:

H.B. 178, Relating to creation of a housing rehabilitation program.

The motion prevailed by the following vote: Yeas 21, Nays 4.

Yeas: Aikin, Braecklein, Clower, Doggett, Farabee, Harris, Jones of Harris, Kothmann, Lombardino, Longoria, Mauzy, Meier, Parker, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Truan, Williams.

Nays: Creighton, Hance, Jones of Taylor, Moore.

Absent: Adams, Andujar, Brooks, McKnight, Ogg.

Absent-excused: Mengden.

The President then laid the bill before the Senate on its second reading and passage to third reading.

The bill was read second time and was passed to third reading.

RECORD OF VOTE

Senator Hance asked to be recorded as voting "Nay" on the on the passage of the bill to third reading.

HOUSE BILL 178 ON THIRD READING

Senator Meier moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 178** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 21, Nays 4.

Yeas: Aikin, Braecklein, Clower, Doggett, Farabee, Harris, Jones of Harris, Kothmann, Lombardino, Longoria, Mauzy, Meier, Parker, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Truan, Williams.

Nays: Creighton, Hance, Jones of Taylor, Moore.

Absent: Adams, Andujar, Brooks, McKnight, Ogg.

Absent-excused: Mengden.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

RECORD OF VOTE

Senator Hance asked to be recorded as voting "Nay" on the final passage of the bill.

HOUSE BILL 1012 ON SECOND READING

On motion of Senator Aikin and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1012. A bill to be entitled An Act relating to the establishment of guidelines for academic workloads at state-supported institutions of higher education; adding Subchapter H to Chapter 51 of the Texas Education Code.

The bill was read second time and was passed to third reading.

HOUSE BILL 1012 ON THIRD READING

Senator Aikin moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1012** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 2.

Yeas: Adams, Aikin, Andujar, Braecklein, Clower, Creighton, Farabee, Hance, Harris, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, Mauzy, Meier, Ogg, Parker, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Truan, Williams.

Nays: Doggett, Moore.

Absent: Brooks, McKnight.

Absent-excused: Mengden.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

HOUSE BILL 1855 ON SECOND READING

On motion of Senator Aikin and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1855, A bill to be entitled An Act relating to the authorized uses of the student deposit fund; amending subsection (b) of Section 51.052, Texas Education Code.

The bill was read second time and was passed to third reading.

HOUSE BILL 1855 ON THIRD READING

Senator Aikin moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1855** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent: Brooks, McKnight.

Absent-excused: Mengden.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

HOUSE BILL 1575 ON SECOND READING

On motion of Senator Aikin and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1575, Making appropriations for and directing payment to certain miscellaneous claims and judgments out of funds designated herein; requiring approval of the claims in the manner specified in the Act before payment is made; providing for severability; repealing laws in conflict; and declaring an emergency.

The bill was read second time and was passed to third reading.

HOUSE BILL 1575 ON THIRD READING

Senator Aikin moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1575** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent: Brooks, McKnight.

Absent-excused: Mengden.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

HOUSE BILL 1772 ON THIRD READING

Senator Farabee moved to suspend the regular order of business to take up for consideration on its third reading and final passage:

H.B. 1772, Relating to an inspection certificate for a motor vehicle.

The motion prevailed by the following vote: Yeas 25, Nays 2.

Yeas: Adams, Aikin, Andujar, Braecklein, Clower, Creighton, Doggett, Farabee, Hance, Harris, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, Mauzy, Meier, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Truan, Williams.

Nays: Moore, Parker.

Absent: Brooks, McKnight, Ogg.

Absent-excused: Mengden.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

HOUSE BILL 39 ON SECOND READING

Senator Braecklein moved to suspend the regular order of business to take up for consideration at this time:

H.B. 39, A bill to be entitled An Act relating to the commitment, delivery to place of confinement, and the computation of sentence of a convicted defendant; amending Article 42.09, Code of Criminal Procedure, 1965, by adding a new Section 4a and by amending Sections 5 and 6; and declaring an emergency.

The motion prevailed by the following vote: Yeas 26, Nays 2.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Doggett, Farabee, Hance, Harris, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, Mauzy, Meier, Parker, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Truan, Williams.

Nays: Creighton, Moore.

Absent: McKnight, Ogg.

Absent-excused: Mengden.

The President then laid the bill before the Senate on its second reading and passage to third reading.

The bill was read second time and was passed to third reading.

HOUSE BILL 39 ON THIRD READING

Senator Braecklein moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 39** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 2.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Doggett, Farabee, Hance, Harris, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, Mauzy, Meier, Parker, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Truan, Williams.

Nays: Creighton, Moore.

Absent: McKnight, Ogg.

Absent-excused: Mengden.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

HOUSE BILL 1309 ON SECOND READING

On motion of Senator Lombardino and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1309, A bill to be entitled An Act relating to disclosure by certain professions and occupations of name and net amounts paid for tests by laboratories; and declaring an emergency.

The bill was read second time and was passed to third reading.

HOUSE BILL 1309 ON THIRD READING

Senator Lombardino moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1309** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent: McKnight, Ogg.

Absent-excused: Mengden.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 0.

Absent: McKnight, Ogg.

Absent-excused: Mengden.

SENATE RULE 103 SUSPENDED

On motion of Senator Brooks and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Human Resources might consider **H.J.R. 108** today.

SENATE BILL 157 WITH HOUSE AMENDMENTS

Senator Meier called **S.B. 157** from the President's table for consideration of the House amendments to the bill. (The amendments having been read on Tuesday, May 24, 1977.)

Senator Meier moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **S.B. 157** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Meier, Jones of Harris, Adams, Traeger and Lombardino.

RECESS

On motion of Senator Aikin the Senate at 12:02 o'clock p.m. took recess until 1:30 o'clock p.m. today.

AFTER RECESS

The Senate met at 1:30 o'clock p.m. and was called to order by the President.

MESSAGE FROM THE HOUSE

House Chamber
May 28, 1977

Honorable William P. Hobby
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

The House has granted the request of the Senate for the appointment of a conference committee on Senate Bill No. 182.

House Conferees: Untermeyer, Delco, Maloney, Tejeda, Jackson.

All necessary rules suspended, and the House concurred in Senate amendments to H.B. No. 321 by a non record vote.

All necessary rules suspended, and the Conference Committee Report on Senate Bill No. 266 adopted by a non record vote.

All necessary rules suspended, and the House concurred in Senate amendments to H.B. No. 1739 by non record vote.

All necessary rules suspended, and the House concurred in Senate amendments to H.B. No. 2028 by non record vote.

All necessary rules suspended, and the House concurred in Senate amendments to H.B. No. 2165 by record vote of 141 ayes, 2 noes.

All necessary rules suspended, and the conference committee report on Senate Bill No. 368 adopted by a non record vote.

All necessary rules suspended, and the House concurred in Senate amendments to **H.B. 368** by a non record vote.

All necessary rules suspended, and the conference committee report on Senate Bill No. 54 adopted by non record vote.

The motion to reconsider and table the vote by which conference committee on **S.B. 54** was adopted prevailed by a non record vote.

All necessary rules suspended, and the House concurred in Senate amendments to H.B. No. 955 by a non record vote.

S.B. 32, A bill to be entitled An Act relating to payment of fees, court costs, restitution, and reparations by adult probationers; amending Subsection (a) of Section 6a and adding Subsection (c) to Section 8, Article 42.12, Code of Criminal Procedure, 1965, as amended; and declaring an emergency. (With amendment)

S.B. 143, Reducing the age at which a child may choose a managing conservator. (With amendment)

S.B. 311, Increasing the penalty for enticing a child out of the county of his parents' residence and prohibiting solicitation of a child. (With amendment)

S.B. 638, Relating to state agency funding of property damage insurance.

S.B. 866, Relating to penalties for offenses of arson, criminal mischief, and false alarms. (With amendment)

S.B. 1275, Relating to worker's compensation regulations and benefits. (With amendments)

All necessary rules suspended, and the House concurred in Senate amendments to **H.B. 2238** by a non record vote.

Respectfully submitted,
BETTY MURRAY, Chief Clerk
House of Representatives

**CONFERENCE COMMITTEE REPORT HOUSE CONCURRENT
RESOLUTION 52**

Senator Schwartz submitted the following Conference Committee Report:

Austin, Texas
May 28, 1977

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **H.C.R. 52** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

SCHWARTZ
ADAMS
HANCE
MOORE
LONGORIA
On the part of the Senate

DAVIS
REYES
BROWDER
On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT SENATE BILL 1235

Senator Hance submitted the following Conference Committee Report:

Austin, Texas
May 27, 1977

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on Senate Bill 1235 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

HANCE
KOTHMANN
LOMBARDINO
WILLIAMS
FARABEE
On the part of the Senate

SALINAS
McFARLAND
WASHINGTON
VALE
COLEMAN
On the part of the House

CONFERENCE COMMITTEE REPORT
SENATE BILL 1235

A BILL TO BE ENTITLED

AN ACT

relating to the compensation of the judges of certain courts in Lubbock County; amending Section 22, Chapter 109, Acts of the 55th Legislature, Regular Session, 1957, as amended (Article 1970-340.1, Vernon's Texas Civil Statutes); and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Section 22, Chapter 109, Acts of the 55th Legislature, Regular Session, 1957, as amended (Article 1970-340.1, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 22. After the effective date of this amendment, the Judge of the County Court of Lubbock County and the Judge of the County Court at Law No. 2 of Lubbock County ~~shall~~ may receive an annual salary in an amount not less than three-fourths (3/4) of the total annual salary paid to the Judge of the 99th Judicial District of Texas by the State of Texas. This sum shall be paid in equal monthly installments out of the General Fund of Lubbock County on orders from the Commissioners Court."

Sec. 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

SENATE BILL 1052 WITH HOUSE AMENDMENT

Senator Hance called **S.B. 1052** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment No. 1

Substitute the following for **S.B. 1052**:

A BILL TO BE ENTITLED

AN ACT

relating to local use and inspection fees for boats used on public water; amending Section 31.092, Parks and Wildlife Code, by adding Subsection (c).

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Section 31.092, Parks and Wildlife Code, is amended by adding Subsection (c) to read as follows:

“(c) No City, Town, Village, special district, or other political subdivision of the State may impose or collect a fee for the registration or inspection of vessels to be used on public water against the owner or operator of a vessel used on public water. This section does not apply to the Local Sales and Use Tax Act nor to any launch fees, docking fees, entry fees or other recreational fees which may be imposed or collected by any political subdivision of the State of Texas for the use of the facilities afforded by any such district to the public.

Sec. 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Hance moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 26, Nays 0.

Absent: Harris, McKnight, Moore, Santiesteban.

Absent-excused: Mengden.

HOUSE BILL 1408 ON SECOND READING

On motion of Senator Longoria and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1408, A bill to be entitled An Act relating to the creation, administration, powers, duties, functions, financing, dissolution, consolidation, and adding and

excluding territory of irrigation districts as defined in this Act; amending the Water Code by adding Chapter 58; and declaring an emergency.

The bill was read second time and was passed to third reading.

HOUSE BILL 1408 ON THIRD READING

Senator Longoria moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1408** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 0.

Absent: Meier, Moore, Santiesteban.

Absent-excused: Mengden.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

COMMITTEE SUBSTITUTE HOUSE BILL 869 ON SECOND READING

Senator Longoria moved to suspend the regular order of business to take up for consideration at this time:

C.S.H.B. 869, Validating certain unenforceable tax levies; providing for valid annual levies hereafter; providing for cases of tax levies made but not properly recorded and to declare that assessment and collection of taxes for any year constitute notice of a tax levy made, these provisions to be cumulative of and in addition to existing rights and remedies now available; defining Tax Unit or Unit; specifying inapplicability of this Act; providing for severability.

The motion prevailed by the following vote: Yeas 24, Nays 4.

Yeas: Adams, Aikin, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Hance, Harris, Jones of Harris, Kothmann, Lombardino, Longoria, Mauzy, Moore, Ogg, Parker, Patman, Schwartz, Sherman, Traeger, Truan, Williams.

Nays: Andujar, Jones of Taylor, Meier, Snelson.

Absent: McKnight, Santiesteban.

Absent-excused: Mengden.

The President then laid the bill before the Senate on its second reading and passage to third reading.

The bill was read second time.

Senator Meier offered the following amendment to the bill:

Amend **H.B. 869** by adding a new section numbered appropriately by providing:

This act will not affect pending litigation nor any disputed property valuation notice of which has been given to the tax unit involved.

The amendment was read and was adopted.

Senator Longoria offered the following amendment to the bill:

Amend C.S.H.B. No. 869 by striking all of Section 1 and adding a new Section 1 to read as follows:

Section 1. UNENFORCEABLE TAX LEVIES AND BOUNDARY CHANGES. (a) All tax levies and junior college district boundary changes heretofore made by and for any tax unit, which levies or boundary changes are unenforceable because not made in strict compliance with the form and manner required by statute or because of any other defect which may be cured by the legislature, are hereby validated and declared enforceable the same as though they had been regularly made in proper form and manner.

(b) If for any cause any tax unit hereafter fails to make a valid tax levy for any year or years, the tax unit's last valid tax levy prior to such omitted year or years shall be continued in force as the tax levy of such tax unit for each year in which a valid tax levy was not made, so that there shall never be a year hereafter for which some valid levy is not in force.

The amendment was read and was adopted.

On motion of Senator Longoria and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

RECORD OF VOTES

Senators Meier, Sherman and Snelson asked to be recorded as voting "Nay" on the passage of the bill to third reading.

COMMITTEE SUBSTITUTE HOUSE BILL 869 ON THIRD READING

Senator Longoria moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.H.B. 869** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 23, Nays 4.

Yeas: Adams, Aikin, Braecklein, Brooks, Clower, Creighton, Doggett, Hance, Harris, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, Mauzy, Ogg, Parker, Patman, Schwartz, Sherman, Traeger, Truan, Williams.

Nays: Andujar, Farabee, Meier, Snelson.

Absent: McKnight, Moore, Santiesteban.

Absent-excused: Mengden.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

RECORD OF VOTES

Senators Sherman, Snelson and Meier asked to be recorded as voting "Nay" on the final passage of the bill.

CONFERENCE COMMITTEE REPORT SENATE BILL 914

Senator Farabee submitted the following Conference Committee Report:

Austin, Texas
May 28, 1977

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 914** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

FARABEE
SNELSON
TRAEGER
ADAMS
On the part of the Senate

MARTIN OF MITCHELL
EZZELL
BENEDICT
CATES
SMITH
On the part of the House

CONFERENCE COMMITTEE REPORT

S.B. 914

A BILL TO BE ENTITLED

AN ACT

relating to the establishment, jurisdiction, and operation of municipal courts of record in the city of Sweetwater and providing for municipal judges and other personnel of the courts; prescribing rules and procedures for appeals from a municipal court of record and the effect of the ruling of the appellate court; prescribing the extent of applicability of laws other than this Act; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. CREATION; FORMATION BY ORDINANCE. There is created in the city of Sweetwater a court of record to be known as the "City of Sweetwater Municipal Court," to be held in that city if the governing body of the city of Sweetwater, by ordinance, finds and determines that the formation of a municipal court of record is necessary in order to provide a more efficient disposition of appeals arising from the municipal court.

The authority of the governing body of the city of Sweetwater to create a municipal court of record in the city of Sweetwater includes the authority to establish, in the manner set forth in this section, more than one municipal court of record if the governing body determines that it is necessary in order to dispose of the cases arising in the city. If more than one municipal court of record is created, the judges of the municipal courts may at any time exchange benches and sit and act for and with each other in a case, matter, or proceeding pending in a municipal court, and any and all acts thus performed by a judge are valid and binding on all parties to the case, matter, and proceeding.

The municipal court of record authorized in this section is referred to in this Act as the "municipal court."

Sec. 2. APPLICATION OF OTHER LAWS REGARDING MUNICIPAL COURTS. The general laws of the state regarding municipal courts, and regarding justice courts on matters where there is no law for municipal courts, and the valid charter provisions and ordinances of the city of Sweetwater relating to the municipal court apply to the municipal court authorized in this Act, unless the laws, charter provisions, and ordinances are in conflict or inconsistent with the provisions of this Act.

Sec. 3. JUDGE; QUALIFICATIONS. The municipal court shall be presided over by a judge, who shall be a licensed attorney in good standing in this state and a citizen of the United States and of this state. He need not be a resident of the city at the time of his appointment, but he shall maintain his residence in the city during his tenure of office. He shall be appointed by the governing body of the city. He shall be paid a salary to be determined by the governing body of the city. The salary shall not be based on or in any way contingent on the fines, fees, or costs collected by the municipal court.

If more than one municipal court is created by the governing body of the city, a judge shall be appointed for each court and the governing body of the city shall designate a judge to be the presiding judge.

Sec. 4. COURT CLERK. The governing body of the city shall provide a clerk of the municipal courts, and such deputy clerks, warrant officers, and other municipal court personnel, including at least one bailiff for each court, as are necessary for the proper operation of the municipal courts. It is the duty of the

clerk to keep the records of proceedings of the municipal courts and to issue all processes and generally to perform the duties now prescribed by law for clerks of the county courts at law exercising criminal jurisdiction insofar as the same may be applicable. The clerk of the municipal courts and all other personnel shall perform the duties of the office under the direction and control of the municipal court judge.

Sec. 5. COURT REPORTER. For the purpose of preserving a record in the cases tried before the municipal court, the city shall provide a court reporter, who shall be appointed by the municipal court judge and whose compensation shall be determined by the governing body of the city. The qualifications of the court reporter shall be determined by the judge, or if there is more than one judge, by the presiding judge.

The record of proceedings may be preserved by the court reporter by written notes, transcribing equipment, recording equipment, or any combination of them. The court reporter is not required to take testimony in cases where neither the defendant, the prosecutor, nor the judge demands it.

Sec. 6. ORDINANCES; JUDICIAL NOTICE. The municipal court shall take judicial notice of the ordinances of the city.

Sec. 7. APPEAL; APPELLATE COURTS. A defendant has the right of appeal from a judgment of conviction in the municipal court under the rules prescribed in this Act. The County Court of Nolan County has jurisdiction over the appeals from the municipal court.

Sec. 8. APPEALS ON THE RECORD; NO DE NOVO APPEALS. Each appeal from a conviction in the municipal court shall be determined by the appellate court solely on the basis of errors pointed out in the defendant's motion for new trial and presented in the transcript and statement of facts prepared from the municipal court proceedings leading to the conviction. No appeal from the municipal court may be by trial de novo.

Sec. 9. MOTION FOR NEW TRIAL. In order to perfect an appeal, a written motion for new trial must be filed by the defendant no later than the 10th day after the rendition of the judgment of conviction, and may be amended by leave of court at any time before it is acted on within 20 days after it is filed. The motion for new trial shall be presented to the court within 10 days after the filing of the original or amended motion, and shall be determined by the court within 20 days after the filing of the original or amended motion. For good cause shown the time for filing or amending may be extended by the court. An original or amended motion shall be deemed overruled by operation of law at the expiration of the 20 days allowed for determination of the motion if it is not acted on by the court within that time. The motion shall set forth the points of error complained of by the defendant. For purposes of appeal, a point of error not distinctly set forth in the motion for new trial shall be considered as waived.

Sec. 10. NOTICE OF APPEAL. In order to perfect an appeal, the defendant shall give timely notice of appeal. In the event the defendant requests a hearing on his motion for new trial, the notice of appeal may be given orally in open court upon the overruling of the motion for new trial; otherwise, the notice of appeal shall be in writing and filed with the municipal court no later than the 10th day after the motion for new trial is overruled.

Sec. 11. APPEAL BOND. If the defendant is not in custody, an appeal may not be taken until the required appeal bond has been filed with and approved by the municipal court. The appeal bond must be filed no later than the 10th day after the motion for new trial is overruled. If the defendant is in custody, he shall be committed to jail unless he posts the required appeal bond. The appeal bond shall be in an amount not less than double the amount of fine and costs adjudged against the defendant. However, the bond may not in any case be for a less sum than \$100. The bond shall recite that in the cause the defendant shall make his personal

appearance before the court to which the appeal is taken instant, if the court is in session, and if the court is not in session, then at its next session, and there remain from day to day and answer in the cause.

Sec. 12. **RECORD ON APPEAL.** The record on appeal in a case appealed from the municipal court consists of a transcript and, where necessary to the appeal, a statement of facts. If the court finds, after hearing in response to affidavit by defendant that he is unable to pay or give security for the record on appeal, the court will order the reporter to make such transcription without charge to the defendant.

Sec. 13. **CONTENTS OF TRANSCRIPT.** (a) The municipal court clerk, upon written request from the defendant, shall prepare under his hand and seal of the court for transmission to the appellate court a true transcript of the proceedings in the municipal court that shall always include the following:

- (1) the complaint;
- (2) material docket entries made by the court;
- (3) the jury charge and verdict, if the trial is by jury;
- (4) the judgment;
- (5) the motion for new trial;
- (6) the notice of appeal;
- (7) all written motions and pleas and orders of the court; and
- (8) bills of exception, if any are filed.

(b) The municipal court clerk may include in the transcript additional portions of the proceedings in the municipal court if so instructed in writing by either the defendant or the prosecuting attorney.

Sec. 14. **BILLS OF EXCEPTION.** Either party may include bills of exception in the transcript on appeal, subject to complying with the applicable provisions of the Code of Criminal Procedure governing the preparation of bills of exception and their inclusion in the record on appeal to the Court of Criminal Appeals, except that the bills of exception shall be filed with the municipal court clerk within 60 days after the giving or filing of the notice of appeal.

Sec. 15. **STATEMENT OF FACTS; AGREED STATEMENT; DESIGNATED ITEMS AND PAYMENT.** (a) A statement of facts, when included in the record on appeal, shall consist of:

(1) a transcription of all or any part of the municipal court proceedings in the case that are shown by the notes of the court reporter to have occurred before, during, or after the trial if such transcription is requested of the court reporter by the defendant; or

(2) a brief statement of the facts of the case proven at the trial, as agreed to by the defendant and the prosecuting attorney; or

(3) a partial transcription and the agreed statement of the facts of the case proven at the trial.

(b) The court reporter shall transcribe any portion of his notes of the court proceedings in the case at the request of the defendant. The defendant shall pay for the transcription. The cost to the defendant for the transcription shall not exceed the fees or charges normally being made by court reporters in the county for similar transcriptions. The municipal court shall order the court reporter to make the transcriptions without charge to the defendant if the court finds, after hearing in the response to affidavit by the defendant, that he is too poor to pay or give security for the transcriptions.

Sec. 16. **FILING OF TRANSCRIPT AND STATEMENT OF FACTS; TIME LIMITS; COMPLETION AND APPROVAL OF RECORD; TRANSFER OF RECORD TO CLERK OF APPELLATE COURT.** (a) Within 60 days of the giving or filing of the notice of appeal, the parties shall file with the municipal court clerk:

- (1) the statement of facts;
- (2) a written designation of all matter that is to be included in the transcript in addition to matter required to be in the transcript by Section 13 of this Act; and
- (3) any matter designated to be included in the transcript that is not then in the custody of the municipal court clerk.

(b) On completing the record as designated by the parties in Subdivision (2), Subsection (a) of this section, the municipal court judge shall approve the record in the manner provided by law for record completion notification and approval in appeals to the Court of Criminal Appeals.

(c) On the municipal court judge's approval of the record, the municipal court clerk shall promptly forward it to be filed with the appellate court clerk, who shall notify the defendant and the prosecuting attorney that the record has been filed.

Sec. 17. BRIEF ON APPEAL: CONTENTS AND FILING. (a) A brief on appeal from the municipal court shall present points of error in the same manner required by law for a brief on appeal to the Court of Criminal Appeals, except that the points of error on appeal shall be confined to those points of error set forth in the defendant's motion for new trial.

(b) The defendant shall file his brief with the clerk of the appellate court within 15 days from the date of the filing of the transcript and statement of facts with the appellate court clerk, who shall notify the prosecuting attorney of the filing. The prosecuting attorney shall file his brief with the clerk of the appellate court within 15 days after the defendant files his briefs with the clerk. Each party, on filing his brief with the clerk of the appellate court, shall cause a true copy of his brief to be delivered to the opposing party.

Sec. 18. PROCEDURE ON APPEAL; REVIEW OR ERROR. The appellate court shall hear and determine appeals from the municipal court at the earliest practical time it may be done, with due regard to the rights of parties and proper administration of justice, and no affirmance or reversal of a case shall be determined on mere technicalities or on technical errors in the preparation and filing of the record on appeal. Oral arguments before the appellate court shall be under the rules which the appellate court may determine, and the parties may submit the case on the records and briefs without oral arguments.

Sec. 19. DISPOSITION ON APPEAL; PRESUMPTIONS; DECISION. (a) The appellate court may affirm the judgment of the municipal court, or may reverse or remand for a new trial, or may reverse and dismiss the case, or may reform or correct the judgment, as the law and the nature of the case may require.

(b) The appellate court shall presume (1) that the venue was proven in the court below; (2) that the jury was properly impaneled and sworn; (3) that the defendant was arraigned and that he pleaded to the complaint; and (4) that the court's charge was certified by the municipal court judge before it was read to the jury; unless such matters were made an issue in the trial court, or it affirmatively appears to the contrary from the transcript or statement of facts.

(c) In each case decided by the appellate court, the court shall deliver a written opinion or order either sustaining or overruling each assignment of error presented. If an assignment of error is overruled no reason need be given by the appellate court, but cases relied on by the court may be cited. If an assignment of error is sustained, the appellate court shall set forth the reasons for the decision. Copies of the decision of the appellate court shall be mailed by the clerk of the appellate court to the parties and the judge of the municipal court as soon as the decision is rendered by the appellate court.

Sec. 20. CERTIFICATE OF APPELLATE PROCEEDINGS; FILING OF RECORD; ENFORCEMENT OF JUDGMENT. When the judgment of the appellate court becomes final, the clerk of the appellate court shall make out a proper certificate of the proceedings had and the judgment rendered and shall mail

the certificates to the clerk of the municipal court. When the certificate is received by the clerk of the municipal court, he shall file it with the papers in the case and note it on the docket. If the judgment has been affirmed, no proceeding need be had after filing the certificate in the municipal court to enforce the judgment of the court, except to forfeit the bond of the defendant, to issue a capias for the defendant, or issue an execution against his property.

Sec. 21. **NEW TRIAL.** If the appellate court awards a new trial to the defendant, the cause shall stand as it would have stood if a new trial had been granted by the municipal court.

Sec. 22. **APPEALS TO THE COURT OF CRIMINAL APPEALS; RECORD.** When a judgment is affirmed by the appellate court, the defendant shall have the right to appeal to the Court of Criminal Appeals if the fine assessed against the defendant in the municipal court exceeded \$100. The appeals to the Court of Criminal Appeals shall be governed by provisions in the Code of Criminal Procedure relating to direct appeals from county and district courts to the Court of Criminal Appeals except that:

(1) the record and briefs on appeal in the appellate court, plus the transcript of proceedings in the appellate court, shall constitute the record and briefs on appeal to the Court of Criminal Appeals unless the rules of the Court of Criminal Appeals provide otherwise; and

(2) the record and briefs shall be filed directly with the Court of Criminal Appeals.

Sec. 23. **CONFLICTING LAWS CONFORMED.** All laws in conflict or inconsistent with the provisions of this Act are hereby conformed to the provisions of this Act.

Sec. 24. **EMERGENCY.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

REPORT OF STANDING COMMITTEE

By unanimous consent, Senator Brooks submitted the following report for the Committee on Human Resources:

H.B. 151

H.J.R. 108

C.S.H.B. 2105 (Read first time)

MESSAGE FROM THE HOUSE

House Chamber

May 28, 1977

Honorable William P. Hobby
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

The House has granted the request of the Senate for the appointment of a conference committee on Senate Bill No. 366.

House conferees: Ezell, Chairman, Atkinson, Browder, McBee, Wyatt.

All necessary rules suspended, and the House concurred in Senate amendments to H. B. No. 2196 by a non record vote.

All necessary rules suspended, and the House failed to concur in Senate amendments to House Bill No. 2061 by a record vote of 20 Ayes, 109 Noes, 5 Present-Not Voting.

S.J.R. 2, Failed of adoption by record vote of 81 ayes and 5 noes.

S.B. 952, Relating to certain fees for selling fireworks. (With amendment)

The House has granted the request of the Senate for the appointment of a conference committee on Senate Bill 182.

House conferees: Untermeyer, Delco, Maloney, Tejeda, Jackson.

The House has granted the request of the Senate for the appointment of a conference committee on Senate Bill 157.

House Conferees: Close, McFarland, Peveto, Maloney, Hendricks.

All necessary rules suspended, and the House concurred in Senate amendments to H.B. No. 1592 by a non record vote.

All necessary rules suspended, and the House concurred in Senate amendments to H.B. No. 337 by a record vote of 124 ayes, 4 noes, 3 present-not voting.

All necessary rules suspended, and the conference committee report on Senate Bill No. 914 adopted by a non record vote.

The motion to reconsider and table the vote by which Conference Committee Report on **S.B. 914** was adopted-Prevailed by a non record vote.

S.C.R. 81, Transferring certain records of the Texas Legislative Service Library to Southern Methodist University.

The House refused to concur in Senate amendments to H.B. No. 1 and has requested the appointment of a conference committee to consider the differences between the two Houses.

House conferees: Wyatt, Hollowell, Davis, Browder, Schleuter.

H.C.R. 190, That the 65th Legislature recommends that state agencies use the Kerrville Training Facility to instruct their employees.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 869 by a non record vote.

Respectfully submitted,
BETTY MURRAY, Chief Clerk
House of Representatives

HOUSE BILL 1472 REREFERRED

On motion of Senator Andujar and by unanimous consent, **H.B. 1472** was withdrawn from the Committee on Intergovernmental Relations and rereferred to the Committee on Administration.

HOUSE BILL 136 ON SECOND READING

Senator Truan moved to suspend the regular order of business to take up for consideration at this time:

H.B. 136, Relating to participation by school districts in the federal program providing breakfasts for certain school children.

The motion prevailed by the following vote: Yeas 21, Nays 6.

Yeas: Adams, Andujar, Braecklein, Brooks, Clower, Doggett, Farabee, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, Mauzy, Meier, Ogg, Parker, Patman, Santiesteban, Schwartz, Truan, Williams.

Nays: Aikin, Creighton, Hance, Harris, Snelson, Traeger.

Absent: McKnight, Moore, Sherman.

Absent-excused: Mengden.

The President then laid the bill before the Senate on its second reading and passage to third reading.

The bill was read second time.

(Senator Mauzy in Chair)

Senator Truan offered the following committee amendment to the bill:

Amend C.S.H.B. No. 136 by striking the quoted figure 25 in quoted subsection (a) of Section 21.914 of Section 1 of the bill and substituting in lieu thereof the figure 10.

The committee amendment was read and was adopted by the following vote: Yeas 23, Nays 7.

Yeas: Adams, Braecklein, Brooks, Clower, Creighton, Doggett, Harris, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, Mauzy, McKnight, Meier, Ogg, Parker, Patman, Santiesteban, Schwartz, Sherman, Truan, Williams.

Nays: Aikin, Andujar, Farabee, Hance, Moore, Snelson, Traeger.

Absent-excused: Mengden.

Senator Moore offered the following amendment to the bill:

Amend **H.B. 136** by striking the word "shall" on line 23, page 1 and inserting in lieu thereof the word "may".

The amendment was read.

(President in Chair)

On motion of Senator Truan, the amendment was tabled by the following vote: Yeas 19, Nays 11.

Yeas: Adams, Braecklein, Brooks, Clower, Doggett, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, Mauzy, McKnight, Ogg, Parker, Santiesteban, Schwartz, Sherman, Truan, Williams.

Nays: Aikin, Andujar, Creighton, Farabee, Hance, Harris, Meier, Moore, Patman, Snelson, Traeger.

Absent-excused: Mengden.

Senator Moore offered the following amendment to the bill:

Amend **H.B. 136** by adding the following after the word "schools" on line 25, a new sentence to read as follows:

"This requirement shall be optional for the high school level."

The amendment was read.

On motion of Senator Truan, the amendment was tabled by the following vote: Yeas 18, Nays 12.

Yeas: Adams, Andujar, Brooks, Clower, Doggett, Jones of Harris, Kothmann, Lombardino, Longoria, Mauzy, McKnight, Ogg, Parker, Santiesteban, Schwartz, Sherman, Truan, Williams.

Nays: Aikin, Braecklein, Creighton, Farabee, Hance, Harris, Jones of Taylor, Meier, Moore, Patman, Snelson, Traeger.

Absent-excused: Mengden.

On motion of Senator Truan and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by the following vote: Yeas 22, Nays 8.

Yeas: Adams, Andujar, Braecklein, Brooks, Clower, Doggett, Farabee, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, Mauzy, McKnight, Ogg, Parker, Patman, Santiesteban, Schwartz, Sherman, Truan, Williams.

Nays: Aikin, Creighton, Hance, Harris, Meier, Moore, Snelson, Traeger.

Absent-excused: Mengden.

MOTION TO PLACE HOUSE BILL 136 ON THIRD READING

Senator Truan moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 136** be placed on its third reading and final passage.

The motion was lost by the following vote (Not receiving four-fifths vote of the Members present): Yeas 22, Nays 6.

Yeas: Adams, Andujar, Braecklein, Brooks, Clower, Doggett, Farabee, Jones of Harris, Kothmann, Lombardino, Longoria, Mauzy, McKnight, Meier, Ogg, Parker, Patman, Santiesteban, Schwartz, Sherman, Truan, Williams.

Nays: Aikin, Creighton, Hance, Moore, Snelson, Traeger.

Absent: Harris, Jones of Taylor.

Absent-excused: Mengden.

HOUSE BILL 1969 ON SECOND READING

On motion of Senator Farabee and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1969, A bill to be entitled An Act relating to the establishment of a Texas Administrative Code and the contents thereof; and declaring an emergency.

The bill was read second time and was passed to third reading.

HOUSE BILL 1969 ON THIRD READING

Senator Farabee moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1969** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Mengden.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

SENATE RULE 103 SUSPENDED

On motion of Senator Adams and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Administration might consider the following bill and resolutions today:

H.C.R. 186

H.C.R. 184

H.B. 1472

COMMITTEE SUBSTITUTE HOUSE BILL 2194 ON SECOND READING

On motion of Senator Santiesteban and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 2194, Relating to the disposition of surplus state property; adding Section 12 to Article 666, Revised Civil Statutes of Texas, 1925, as amended.

The bill was read second time and was passed to third reading.

COMMITTEE SUBSTITUTE HOUSE BILL 2194 ON THIRD READING

Senator Santiesteban moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.H.B. 2194** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Hance, Harris, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, Mauzy, McKnight, Meier, Moore, Ogg, Parker, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Truan, Williams.

Nays: Patman.

Absent-excused: Mengden.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

RECORD OF VOTE

Senator Patman asked to be recorded as voting "Nay" on the final passage of the bill.

HOUSE BILL 1416 ON SECOND READING

On motion of Senator Lombardino and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1416, A bill to be entitled An Act relating to the procedural requirements applicable to the issuance of bank charters; adding Subsection (d) to Section 21, Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

The bill was read second time and was passed to third reading.

HOUSE BILL 1416 ON THIRD READING

Senator Lombardino moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1416** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Mengden.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

HOUSE BILL 1330 ON SECOND READING

Senator Traeger asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

H.B. 1330, Relating to property tax exemptions for property of a nonprofit corporation owned and held for the exclusive use and development of biomedical educational research or for other scientific biological uses and purposes, and not used for profit; amending Article 7150, Revised Civil Statutes of Texas, 1925, as amended, by adding Section 29; and declaring an emergency.

There was objection.

Senator Traeger then moved to suspend the regular order of business and take up **H.B. 1330** for consideration at this time.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Hance, Harris, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, McKnight, Meier, Moore, Ogg, Parker, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Truan, Williams.

Nays: Mauzy.

Absent-excused: Mengden.

The President then laid the bill before the Senate on its second reading and passage to third reading.

The bill was read second time and was passed to third reading.

RECORD OF VOTE

Senator Mauzy asked to be recorded as voting "Nay" on the passage of the bill to third reading.

HOUSE BILL 1330 ON THIRD READING

Senator Traeger moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1330** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Hance, Harris, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, McKnight, Meier, Moore, Ogg, Parker, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Truan, Williams.

Nays: Mauzy.

Absent-excused: Mengden.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

RECORD OF VOTE

Senator Mauzy asked to be recorded as voting "Nay" on the final passage of the bill.

(Senator Jones of Harris in Chair)

HOUSE BILL 443 ON SECOND READING

On motion of Senator Meier and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 443, A bill to be entitled An Act converting Sections 9b and 9c, Texas Election Code (Articles 2.01b and 2.01c, Vernon's Texas Election Code), relating to uniform dates for holding elections and joint elections held by different political subdivisions, enacted by Chapter 715, Acts of the 64th Legislature, 1975, as temporary laws, into permanent laws, and declaring their effect on other laws; repealing Section 3(b) of the aforesaid Chapter 715.

The bill was read second time.

Senator Meier offered the following committee amendment to the bill:

Amendment to H.B. No. 443

Add after line 1, page 4:

provided, that nothing contained herein shall be construed as superseding the provisions of Sec. 1, Chapter 673, Acts of the 64th Legislature, 1975 (Sec. 130.082, paragraph (i), Vernon's Texas Education Code).

The committee amendment was read and was adopted.

RECORD OF VOTE

Senator Ogg asked to be recorded as voting "Nay" on the adoption of the committee amendment.

Senator Meier offered the following committee amendment to the bill:

Amend **H.B. 443** in the following manner:

(1) In Sec. 2, Subsection 9b, paragraph (a) on page 1 on line 24, add after the word "state" and before the word "and" the following:

"a general law city of a population less than 3,145 and not more than 3,155 population according to the last preceding Federal decennial census"

(2) In Sec. 2, Subsection 9b, paragraph (c) on page 3 on line 4, add after the word "state" and before the word "and" the following:

"a general law city of a population less than 3,145 and not more than 3,155 population according to the last preceding Federal decennial census"

The committee amendment was read.

Senator Ogg offered the following substitute for the committee amendment:

Amend **H.B. 443** in the following manner:

(1) In Sec. 2, Subsection 9b, paragraph (a) on page 1 on line 24, add after the word "state" and before the word "and" the following:

"a general law city wherein the governing body of said city finds that the religious tenets of more than fifty percent of the registered voters of said city prohibit the adherents from voting in an election held on Saturday,"

(2) In Sec. 2, Subsection 9b, paragraph (c) on page 3 on line 4, add after the word "state" and before the word "and" the following:

"a general law city wherein the governing body of said city finds that the religious tenets of more than fifty percent of the registered voters of said city prohibit the adherents from voting in an election held on Saturday,"

The substitute for the committee amendment was read and was adopted.

The committee amendment as substituted was then adopted.

Senator Jones of Taylor offered the following amendment to the bill:

Amend **H.B. 443** by striking the words "bond elections" as they appear on line 5, page 2 of House first printing of the printed bill following the word "amended" and substituting therefor the following:

"elections for bonds and school maintenance taxes,"

The amendment was read and was adopted.

On motion of Senator Meier and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

HOUSE BILL 443 ON THIRD READING

Senator Meier moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 443** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 0.

Absent: Andujar, Moore, Traeger.

Absent-excused: Mengden.

The Presiding Officer then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

MOTION TO PLACE HOUSE BILL 1967 ON SECOND READING

Senator Traeger moved to suspend the regular order of business to take up for consideration at this time:

H.B. 1967, Relating to rulemaking authority of the Animal Health Commission regarding protection of animals from certain diseases.

The motion was lost by the following vote: Yeas 12, Nays 15.

Yeas: Andujar, Doggett, Kothmann, Lombardino, Longoria, McKnight, Ogg, Parker, Patman, Schwartz, Traeger, Williams.

Nays: Adams, Aikin, Braecklein, Brooks, Clower, Creighton, Hance, Harris, Jones of Harris, Jones of Taylor, Mauzy, Santiesteban, Sherman, Snelson, Truan.

Absent: Farabee, Meier, Moore.

Absent-excused: Mengden.

HOUSE BILL 2007 ON SECOND READING

On motion of Senator Brooks and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 2007, A bill to be entitled An Act relating to use of the term "actor" in the Penal Code; amending Section 1.07(a)(2) of the Penal Code.

The bill was read second time and was passed to third reading.

HOUSE BILL 2007 ON THIRD READING

Senator Brooks moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 2007** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Yeas: Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Hance, Harris, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, Mauzy, McKnight, Meier, Moore, Ogg, Parker, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Truan, Williams.

Nays: Adams.

Absent-excused: Mengden.

The Presiding Officer then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

HOUSE BILL 1976 ON SECOND READING

On motion of Senator Lombardino and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1976, Relating to the acceptance of checks by a tax collector for fees and taxes.

The bill was read second time and was passed to third reading.

HOUSE BILL 1976 ON THIRD READING

Senator Lombardino moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1976** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Mengden.

The Presiding Officer then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

HOUSE BILL 1845 ON SECOND READING

On motion of Senator Longoria and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1845, Providing for a postcard application for absentee ballot with the postage paid by the state.

The bill was read second time and was passed to third reading.

HOUSE BILL 1845 ON THIRD READING

Senator Longoria moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1845** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Mengden.

The Presiding Officer then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

RECORD OF VOTE

Senator Andujar asked to be recorded as voting "Nay" on the final passage of the bill.

MOTION TO PLACE HOUSE BILL 1129 ON SECOND READING

Senator Hance asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

H.B. 1129, Providing a supplemental service retirement benefit for certain law enforcement officers.

There was objection.

Senator Hance then moved to suspend the regular order of business and take up **H.B. 1129** for consideration at this time.

The motion was lost by the following vote (Not receiving two-thirds vote of Members present): Yeas 17, Nays 10.

Yeas: Adams, Aikin, Brooks, Hance, Jones of Harris, Kothmann, Lombardino, Longoria, McKnight, Ogg, Parker, Patman, Santiesteban, Sherman, Snelson, Tracger, Williams.

Nays: Andujar, Braecklein, Clower, Creighton, Doggett, Harris, Jones of Taylor, Moore, Schwartz, Truan.

Absent: Mauzy, Meier, Moore.

Absent-excused: Mengden.

(Senator Adams in Chair)

HOUSE BILL 1776 ON SECOND READING

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1776, A bill to be entitled An Act relating to regulation of the method of dispensing ice to the public on a self-service basis; establishing approved methods of dispensing ice on a self-service basis; providing a penalty; and declaring an emergency.

The bill was read second time and was passed to third reading.

RECORD OF VOTE

Senator Traeger asked to be recorded as voting "Nay" on the passage on the bill to third reading.

HOUSE BILL 1776 ON THIRD READING

Senator Harris moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1776** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 2.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabec, Hance, Harris, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, Mauzy, McKnight, Meier, Moore, Ogg, Parker, Santiesteban, Schwartz, Sherman, Snelson, Truan, Williams.

Nays: Patman, Traeger.

Absent-excused: Mengden.

The Presiding Officer then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

RECORD OF VOTE

Senator Patman asked to be recorded as voting "Nay" on the final passage of the bill.

VOTE ON FINAL PASSAGE OF HOUSE BILL 1845 RECONSIDERED

On motion of Senator Longoria and by unanimous consent, the vote by which **H.B. 1845** was finally passed was reconsidered.

Question - Shall **H.B. 1845** be finally passed?

By unanimous consent, Senator Longoria offered the following amendment to the bill:

Amend H. B. No. 1845 by deleting the words "business reply" before the word "postcard" in the second sentence of the paragraph (a) which is amended in Section 1 of the bill.

The amendment was read and was adopted.

On motion of Senator Longoria and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was again finally passed.

MOTION TO PLACE COMMITTEE SUBSTITUTE HOUSE BILL 537 ON SECOND READING

Senator Jones of Harris asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

C.S.H.B. 537, Relating to the prohibition of discrimination by certain alcoholic beverage licensees and permittees; defining a residential section; and amending Chapters 1 and 109, Alcoholic Beverage Code.

There was objection.

Senator Jones of Harris then moved to suspend the regular order of business and take up **C.S.H.B. 537** for consideration at this time.

The motion was lost by the following vote: Yeas 12. Nays 18.

Yeas: Andujar, Doggett, Harris, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Mauzy, Ogg, Santiesteban, Schwartz, Truan.

Nays: Adams, Aikin, Braecklein, Brooks, Clower, Creighton, Farabee, Hance, Longoria, McKnight, Moore, Parker, Patman, Sherman, Snelson, Traeger, Williams.

Absent: Meier.

Absent-excused: Mengden.

HOUSE BILL 744 ON SECOND READING

On motion of Senator Mauzy and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 744, Permitting certain transfer students to enter first grade before age six.

The bill was read second time and was passed to third reading.

HOUSE BILL 744 ON THIRD READING

Senator Mauzy moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 744** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Mengden.

The Presiding Officer then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

HOUSE BILL 1830 ON SECOND READING

Senator Farabee asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

H.B. 1830, Relating to a period of limitations to recover real estate sold at a tax sale.

There was objection.

Senator Farabee then moved to suspend the regular order of business and take up **H.B. 1830** for consideration at this time.

The motion prevailed by the following vote: Yeas 27, Nays 3.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Hance, Harris, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, McKnight, Meier, Ogg, Parker, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Williams.

Nays: Mauzy, Moore, Truan.

Absent-excused: Mengden.

The Presiding Officer then laid the bill before the Senate on its second reading and passage to third reading.

The bill was read second time.

Senator Farabee offered the following committee amendment to the bill:

Amend **H.B. 1830** by in Section 1, subsection (a), on page 1, by striking the words "claimed to have been" on lines 6 and 7 and by adding the words "a judicial" between the word "to" on line 7 and the word "foreclosure" on line 8.

The committee amendment was read and was adopted.

On motion of Senator Farabee and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

RECORD OF VOTE

Senator Truan asked to be recorded as voting "Nay" on the passage of the bill to third reading.

HOUSE BILL 1830 ON THIRD READING

Senator Farabee moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1830** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 3.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Hance, Harris, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, McKnight, Meier, Ogg, Parker, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Williams.

Nays: Mauzy, Moore, Truan.

Absent-excused: Mengden.

The Presiding Officer then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

RECORD OF VOTES

Senators Mauzy and Truan asked to be recorded as voting "Nay" on the final passage of the bill.

COMMITTEE SUBSTITUTE HOUSE BILL 1576 ON SECOND READING

On motion of Senator Ogg and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 1576, Relating to the duties of the secretary of state as chief election officer, to the assistance rendered to a voter during absentee voting and on election day, to the bond required and the making of interim appointments in election contests, and to the location of polling places; providing penalties; amending Sections 3, 10, 37, 95, 138, 139, 140, 141, 144 and 147, Texas Election Code, as amended (Articles 1.03, 2.02, 5.05, 8.13, 9.10, 9.11, 9.12, 9.13, 9.16, and 9.19, Vernon's Texas Election Code).

The bill was read second time.

(President in Chair)

Senator Santiesteban offered the following amendment to the bill:

Amend the Senate Committee Substitute For House Bill 1576 by adding a new Section 11, and renumbering Section 11 as Section 12, the new Section 11 to read as follows:

"Sec. 11. Subsection (C), Section 242, Texas Election Code, as amended (Article 14.06, Vernon's Texas Election Code), is amended to read as follows:

"(C) As used in this section, the phrase 'contribution or expenditure' shall also include giving, lending, or paying any money or other thing of value, directly or indirectly, to any candidate, or political committee, campaign treasurer, assistant campaign treasurer, or any other person, for the purpose of aiding or defeating the nomination or election of any candidate or of aiding or defeating the approval of any measure submitted to a vote of the people of this state or any subdivision thereof; provided, however, that nothing in this section or in Section 317, Texas Election Code, shall prevent the making of a loan or loans to any candidate, officeholder, or political committee, for campaign or other lawful purposes by any corporation which is legally engaged in the business of lending money and which has conducted such business continuously for more than one year prior to the making of such loan, provided the loan is made in the due course of business and is not directly or indirectly a contribution. As used in this chapter, the phrase 'contribution or expenditure' shall not include expenditures for the following purposes: communications, on any subject, by a corporation to its stockholders and executive or administrative personnel and their families or, if the corporation is an association, to its members, the stockholders and executive or administrative personnel of its members, and their families, or by a labor organization to its members and their families; non-partisan registration and get-out-the-vote campaigns by a corporation ~~[aimed at its stockholders and their families, or, if the corporation is an association, at its members and their families,]~~ or by a labor organization ~~[aimed at its members and their families];~~ or the establishment, administration and solicitation of contributions from the members and their families of one or more labor organizations, or from the stockholders, employees and their families of one or more corporations, or from the members and the stockholders and executive and administrative personnel of the members and their families of one or more associations to a separate segregated fund or other general purpose political committee to be utilized for political purposes by one or more corporations or one or more labor organizations. It is provided that it shall be unlawful for such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, or financial reprisals, or by threats thereof, or by dues, fees, or other moneys required as a condition of membership in a labor organization or a condition of employment, or by moneys obtained in a commercial transaction."

The amendment was read and was adopted by the following vote: Yeas 23, Nays 6.

Yeas: Adams, Aikin, Andujar, Brooks, Creighton, Farabee, Hance, Harris, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, Meier, Moore, Ogg, Parker, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Williams.

Nays: Braecklein, Clower, Doggett, Mauzy, Patman, Truan.

Absent: McKnight.

Absent-excused: Mengden.

Senator Clower offered the following amendment to the bill:

Amend **C.S.H.B. 1576** by adding a new Section 11 to read as follows and renumbering accordingly,

"Sec. 11. Amend Section (H) Article 14.07, Vernon's Texas Election Code by adding a new paragraph 9 to read as follows and renumbering accordingly:

"(9) General purpose political committees that are required to file in accordance with federal statutes and electing to file sworn monthly statements as required by this section shall file on the 10th day of each calendar month, even if there has been no activity, a statement of all contributions received and all expenditures made during the previous calendar month which have not been previously reported. A copy of any additional reports required by the Federal Election Commission shall also be filed with the Secretary of State's office on the same date."

The amendment was read and was adopted.

On motion of Senator Ogg and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

RECORD OF VOTES

Senators Mauzy, Braecklein and Truan asked to be recorded as voting "Nay" on the passage of the bill to third reading.

COMMITTEE SUBSTITUTE HOUSE BILL 1576 ON THIRD READING

Senator Ogg moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.H.B. 1576** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 24, Nays 5.

Yeas: Adams, Aikin, Andujar, Brooks, Creighton, Farabee, Hance, Harris, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, Meier, Moore, Ogg, Parker, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Truan, Williams.

Nays: Braecklein, Clower, Doggett, Mauzy, Patman.

Absent: McKnight.

Absent-excused: Mengden.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

RECORD OF VOTES

Senators Truan, Braecklein and Mauzy asked to be recorded as voting "Nay" on the final passage of the bill.

CONFERENCE COMMITTEE ON HOUSE BILL 1

Senator Hance called from the President's table for consideration at this time, the request of the House for a Conference Committee to adjust the differences between the two Houses on **H.B. 1** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **H.B. 1** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Hance, Adams, Snelson, Traeger and Santiesteban.

CONFERENCE COMMITTEE REPORT ON SENATE BILL 60

Senator Brooks called from the President's table the Conference Committee Report on **S.B. 60**. (The Conference Committee Report having been filed with the Senate and read on Thursday, May 26, 1977.)

On motion of Senator Brooks and by unanimous consent, the Senate Conference Committee on **S.B. 60** was discharged.

On motion of Senator Brooks the Conference Committee Report on **S.B. 60** was withdrawn and a new Conference Committee was appointed.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Brooks, Hance, Lombardino, Sherman and Jones of Harris.

**MOTION TO PLACE
COMMITTEE SUBSTITUTE HOUSE BILL 537 ON SECOND READING**

Senator Jones of Harris moved to suspend the regular order of business to take up for consideration at this time:

C.S.H.B. 537, Relating to the prohibition of discrimination by certain alcoholic beverage licensees and permittees; defining a residential section; and amending Chapters 1 and 109, Alcoholic Beverage Code.

The motion was lost by the following vote (Not receiving two-thirds vote of the Members present): Yeas 17, Nays 13.

Yeas: Braecklein, Brooks, Clower, Doggett, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, Mauzy, Ogg, Parker, Santiesteban, Schwartz, Traeger, Truan, Williams.

Nays: Adams, Aikin, Andujar, Creighton, Farabee, Hance, Harris, McKnight, Meier, Moore, Patman, Sherman, Snelson.

Absent-excused: Mengden.

HOUSE BILL 2068 ON SECOND READING

Senator Meier asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

H.B. 2068, A bill to be entitled An Act relating to the auditing of records and accounts of all cities, towns, and villages in this state, and the preparation and filing of financial statements; declaring such financial statements to be a public record; etc., and declaring an emergency.

There was objection.

Senator Meier then moved to suspend the regular order of business and take up **H.B. 2068** for consideration at this time.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Hance, Harris, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, Mauzy, McKnight, Meier Ogg, Parker, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Truan, Williams.

Nays: Moore.

Absent-excused: Mengden.

The President then laid the bill before the Senate on its second reading and passage to third reading.

The bill was read second time and was passed to third reading.

HOUSE BILL 2068 ON THIRD READING

Senator Meier moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 2068** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Mengden.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

HOUSE BILL 1832 ON SECOND READING

Senator Truan asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

H.B. 1832, A bill to be entitled An Act relating to the method of electing municipal officers in cities having in excess of 200,000 inhabitants; amending Sections 61c and 81, Texas Election Code, as amended (Articles 6.05c and 7.16, Vernon's Texas Election Code).

There was objection.

Senator Truan then moved to suspend the regular order of business and take up **H.B. 1832** for consideration at this time.

The motion prevailed by the following vote: Yeas 26, Nays 4.

Yeas: Aikin, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Hance, Harris, Jones of Harris, Kothmann, Lombardino, Longoria, Mauzy, McKnight, Meier, Ogg, Parker, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Truan, Williams.

Nays: Adams, Andujar, Jones of Taylor, Moore.

Absent-excused: Mengden.

The President then laid the bill before the Senate on its second reading and passage to third reading.

The bill was read second time and was passed to third reading.

HOUSE BILL 1832 ON THIRD READING

Senator Truan moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1832** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 4.

Yeas: Aikin, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Hance, Harris, Jones of Harris, Kothmann, Lombardino, Longoria, Mauzy, McKnight, Meier, Ogg, Parker, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Truan, Williams.

Nays: Adams, Andujar, Jones of Taylor, Moore.

Absent-excused: Mengden.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

RECORD OF VOTE

Senator Jones of Taylor asked to be recorded as voting "Nay" on the final passage of the bill.

LEAVE OF ABSENCE

Senator Santiesteban was granted leave of absence for the remainder of today on account of important business on motion of Senator Meier.

MOTION TO PLACE HOUSE BILL 686 ON SECOND READING

Senator Truan moved to suspend the regular order of business to take up for consideration at this time:

H.B. 686, Relating to the use of county equipment for soil conservation work on private property; repealing Chapter 53, General Laws, Acts of the 42nd Legislature, Regular Session, 1931 (Article 2372c, Vernon's Texas Civil Statutes).

The motion was lost by the following vote (Not receiving two-thirds vote of the Members present): Yeas 15, Nays 14.

Yeas: Braecklein, Brooks, Clower, Doggett, Hance, Jones of Harris, Kothmann, Lombardino, Longoria, Mauzy, Meier, Schwartz, Sherman, Snelson, Truan.

Nays: Adams, Aikin, Andujar, Creighton, Farabee, Harris, Jones of Taylor, McKnight, Moore, Ogg, Parker, Patman, Traeger, Williams.

Absent-excused: Mengden, Santiesteban.

HOUSE BILL 1125 ON SECOND READING

On motion of Senator Ogg and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1125, A bill to be entitled An Act relating to the administration of elections; providing for consolidation of election duties performed by county clerks and voter registration duties performed by county tax assessor-collectors; etc., and declaring an emergency.

The bill was read second time.

Senator Mauzy offered the following amendment to the bill:

Amend H.B. No. 1125 as follows:

- (1) On page 1, lines 14 and 18, change the numeral 4 to 18.
- (2) Renumber Section 5 as Section 19 and insert new Sections 5 through 18, to read as follows:

Sec. 5. Effective February 1, 1980, Section 179a, Texas Election Code, as amended (Article 13.01a, Vernon's Texas Election Code), is amended to read as follows:

"179a. Affiliation with political party

"Subdivision 1. Parties to which affiliation requirements apply. As used in this section, the term 'political party' includes:

"(1) Parties with a state organization which make nominations by the primary election method;

"(2) Parties with a state organization which make nominations by the convention method; and

"(3) Parties without a state organization which may nominate candidates for county and precinct offices.

"Subdivision 2. Affiliation as prerequisite for participation in party affairs.

(a) The primary elections, conventions, offices, and positions to which this section applies include those at the precinct, county, district, and state level, and also include those at the city level where a party coming within Subdivision 1 of this section also makes nominations for city offices.

"(b) Beginning on February 1, 1980, no person may vote in a primary election or participate in a convention of a political party, sign a petition or application to place the name of a candidate on a primary election ballot, be nominated by a party for public office, or be elected or selected to, or serve in, the position of executive committee member, delegate to any convention of a party, or presidential elector of a party, unless he is registered as a member of the party at the time the election or convention is held, the selection is made, the action is taken, or the service is rendered, as the case may be.

"(c) A person who files an application for a place on a primary ballot before the first Monday in February, 1980, need not be registered as a member of the party at the time the application is filed but must have filed his request for affiliation by the first Monday in February. A person who files an application after that date must be registered as affiliated with the party at the time the application is filed.

"(d) A person who signs the petition of a candidate for a place on a primary ballot in the 1980 elections need not be registered as a member of the party, but a signer may not be affiliated with any other party at the time of signing, and signing the petition disqualifies the person from affiliating with any other party before November 5, 1980.

"(e) A person registered as a member of a political party may sign a petition or application to place the nominees of a different party on a general election ballot if the person has not participated in a primary election or convention of the party in which he is registered during that voting year, but by signing the petition or application he becomes ineligible to participate in any primary election or convention of the party in which he is registered during the remainder of that voting year. A person who is registered as an 'Independent' or who has not declared any party preference may sign a petition or application to place the nominees of a party on the general election ballot.

"Subdivision 3. Voter applying for absentee ballot on federal post card application or, as overseas voter. A voter who is not registered through the registrar's office but who applies for an absentee ballot for a primary election of a designated political party on a federal post card application for absentee ballot under the provisions of Subdivision 2a, Section 37 of this code (Article 5.05, Vernon's Texas Election Code) or who applies under the provisions of the federal Overseas Citizens Voting Rights Act or provisions of this code implementing that Act may vote in that party's primary elections without having affiliated with the party in any other manner. If he has registered through the registrar's office and the registration records show a different affiliation, the statement of party preference on the application for absentee ballot prevails, notwithstanding any other provision of this section, unless the registration records show the voter to be affiliated with a different political party that is also holding primary elections, in which event the

county clerk shall send the voter the primary ballot of the party with which he is shown to be affiliated on the registration records, with an explanation of the reason for sending that ballot. Affiliation with a party through a statement of affiliation or preference on the application for an absentee ballot is not effective for any purpose other than voting in the party's primary elections. For other purposes, the voter must affiliate through the registrar's office.

"Subdivision 4. Voting limited ballot after removal to another county. In order for a voter to vote a limited ballot in a primary election of a political party under the provisions of Section 37c of this code (Article 5.05c, Vernon's Texas Election Code), he must have been registered as a member of that party in the county of his former residence at the time of his removal from that county and he must state on his application for a limited ballot that he was so registered. If the voter presents his registration certificate from the county of former residence, it must reflect that affiliation; but if he is voting on a statement of a lost certificate, his statement of affiliation on his application is sufficient proof of party affiliation to authorize the clerk to permit him to vote in that party's primary.

"Subdivision 5. (a) Proof of party affiliation for participation in primary election or convention. Except as provided in this subdivision or in Subdivision 3 or 4 of this section, no voter may vote in a primary election or participate in a precinct convention of a political party unless he is shown to be affiliated with that party on the then current updated list of registered voters. If the list of registered voters does not show him to be affiliated with that party, he nevertheless shall be permitted to participate, if otherwise eligible:

"(1) if he presents his registration certificate showing that he is affiliated with the party; or

"(2) if he makes an affidavit that he has affiliated with the party in accordance with law and that his registration certificate showing his affiliation has been lost or mislaid or has been used in applying for an absentee ballot and has not been returned to him. For a primary election, the affidavit shall be preserved with the records of the election in the same manner as other affidavits taken by the election officers. For a precinct convention, the affidavit shall be executed in duplicate and a copy shall be attached to and transmitted with each copy of the convention returns.

"(b) If a voter who applies by mail for an absentee ballot in a primary election is not shown to be affiliated with that party on the list of registered voters, the county clerk shall promptly notify the voter, either by telephone or by mail, that the voter must either submit his registration certificate showing that affiliation or his affidavit, as described in paragraph (a) of this subdivision, before he can be furnished a ballot for that primary.

"Subdivision 6. Criminal offenses. (a) It is unlawful for a person to vote in a primary election or to participate in a convention of a political party unless at that time he is affiliated with the party which is holding the primary election or the convention.

"(b) It is unlawful for a judge or clerk of a primary election, including the clerk for absentee voting, to permit a person to vote in a primary unless the voter is shown to be affiliated with the party in a manner provided in Subdivision 3, 4, or 5 of this section.

"(c) It is unlawful for a precinct chairman or anyone else to enter a name on the list of persons participating in a precinct convention unless the person is shown to be affiliated with the party holding the convention in a manner provided in Subdivision 4 or 5 of this section.

"(d) It is unlawful for the chairman of a precinct, county, senatorial district, or state convention knowingly to permit a person to participate in the convention if the person is not affiliated with the party holding the convention.

"(e) A violation of any provision of this subdivision is a Class A misdemeanor.

"Subdivision 7. Effect of party affiliation on independent or write-in candidate. (a) A person who is affiliated with a political party is ineligible to have his name printed on the general election ballot as an independent candidate for any office for which the party with which he is affiliated has a nominee, but his name may be printed on the ballot as an independent candidate if the party with which he is affiliated does not have a nominee for that office.

"(b) Affiliation with a political party or prior participation as a voter or candidate in a party primary or convention is not a bar to a person's being a write-in candidate in a general or special election.

"(c) Rules governing the eligibility of a member of a political party to sign the application or petition of an independent candidate are stated in the sections of this code pertaining to independent candidates."

Sec. 6. The Texas Election Code is amended by adding Section 179b to read as follows:

"179b. Procedures for affiliation and change of affiliation

"Subdivision 1. Methods of affiliation; duration. A voter who states a party preference on his application for registration, as provided in Subdivision 2 of this section, or who declares his preference subsequent to registration, as provided in Subdivision 4 or Subdivision 5 of this section, or who votes in a primary election of a party during the year 1978, or who in the year 1978 participates in a precinct convention of a party which is not holding primary elections, thereby becomes a member of that party until his registration is cancelled or until he changes his designation of that preference in the manner provided in Subdivision 5. No person may be affiliated with more than one party at the same time.

"Subdivision 2. Designation of affiliation at time of registering. Beginning on October 1, 1977, each applicant for a voter registration certificate shall designate on his application the name of the political party with which he wishes to affiliate, or if he does not wish to affiliate with any party, he shall enter the designation of 'Independent,' 'No preference,' or other notation of similar import in the space for party affiliation on the application form. The registrar shall show the designation of party affiliation on the voter's registration certificate and on the list of registered voters. When the registrar receives an application on which the voter designates that he has no party preference or on which no designation is made in the space for party affiliation, he shall show the designation of 'Independent' on the registration certificate and the list of registered voters.

"Subdivision 3. Voting in primary or participating in precinct convention in 1978. (a) Within 30 days after the second (runoff) primary in 1978, the county chairman of each political party holding a primary election in that year shall deliver to the registrar the list of registered voters used at the party's general primary and runoff primary in each election precinct in the county, marked to show the names of persons who voted at the election as provided elsewhere in this code. Within the same period the county clerk shall deliver to the registrar the lists of registered voters used in conducting the absentee voting in the primary elections. The registrar shall preserve these lists of registered voters until March 1, 1981.

"(b) Not less than 30 days nor more than 60 days after the date of the precinct conventions in 1978, the county clerk shall deliver to the registrar the affidavits of voters who participated in the 1978 precinct conventions of parties not holding primary elections that were executed under the provisions of Subsection 5 of Section 179a of this code (Article 13.01a, Vernon's Texas Election Code). The registrar shall preserve the affidavits until March 1, 1981. These provisions supersede any conflicting provisions in Subsection 5.

"(c) Before preparing the lists of registered voters for the voting year 1979, the registrar shall enter on the reverse side of the voter's application for registration and duplicate registration certificate (or, optionally, shall place directly into a computerized record of registered voters) the name of the political party in whose primary each voter voted or in whose precinct convention each voter participated as the designation of the voter's party affiliation; and this shall remain the designation until the voter changes it in the manner prescribed in Subdivision 5 of this section. The registrar shall show on the lists of registered voters prepared during the 1979 voting year the party affiliation of the persons who voted in the 1978 primaries or participated in the 1978 precinct conventions.

"Subdivision 4. Designation of affiliation by other voters registered before October 1, 1977. The notice to be given to voters who are mailed renewal registration certificates in the year 1977 and 1979 in regard to declaration of party affiliation is detailed in paragraph (b-1), Subdivision 2, Section 46a of this code (Article 5.14a, Vernon's Texas Election Code). When the registrar mails the renewal certificates to the voters in 1977 and 1979, he shall leave the space for party affiliation blank on the certificates mailed to voters who applied for registration before October 1, 1977, and who have not since become affiliated with a party or declared their status as an independent. If a voter who applied for registration before that date and whose registration will be continued in effect does not return the certificate for addition of party affiliation or other corrections, or if the voter returns the certificate for other corrections but does not state a party preference, the registrar shall show the voter as an 'Independent' on the list of registered voters, and shall show that designation on the renewal certificate mailed to the voter in 1981, if still registered, unless the voter has obtained a change in the designation before that time. If a voter whose renewal certificate is returned undelivered furnishes the registrar with information showing him entitled to continued registration without stating a party preference, the registrar shall show the voter as an 'Independent' on the corrected renewal certificate and on the list of registered voters.

"Subdivision 5. Change in designation of affiliation. (a) A registered voter may change the designation of his party affiliation as shown on the registration records by presenting to the registrar, in person or by mail, his registration certificate or his signed statement that the certificate has been lost or destroyed, along with his signed request for the change.

"(b) A registered voter may not make any change in his designation of party affiliation during the period beginning with the 29th day before a general primary election and ending with the day of the succeeding general election.

"(c) In addition to the prohibition in paragraph (b) of this subdivision, during the period beginning with February 1 effective for the year 1980 and thereafter, preceding a general primary election and ending with the day of the succeeding general election, a registered voter may not change his designation of party affiliation so as to become affiliated with a political party which is required to make its nominations by primary elections.

"(d) Upon receiving a proper request for a change in party affiliation, the registrar shall issue to the voter a corrected registration certificate and shall attach the request to the voter's application for registration. Where the registrar receives a request which is not timely, he shall return the voter registration certificate, if submitted, and the request to the voter and shall inform the voter of the reason for rejecting the request and the earliest date on which a valid request may be resubmitted to him.

"(e) The change in the designation of party affiliation is deemed to occur on the day that the registrar receives a valid request for the change. The rules for determining the date on which the registrar receives a request by mail are the same as those pertaining to an application for registration by mail.

"Subdivision 6. Voter registering during an election period. (a) Where a voter applies for registration during the period beginning with the 29th day before a general primary election and ending with the day of the succeeding general election, the statement of party preference on his application must conform to the rules stated in this subdivision.

"(b) Except as permitted in paragraph (c) of this subdivision, a voter who was registered either in the same county or in some other county of this state during that calendar year may not register as a member of any political party other than the one, if any, with which he was last registered under the previous registration. He must register either as a member of the same party, if he was registered as a member of a party, or as an 'Independent.' If a voter knowingly applies for registration as a member of any other party, except as permitted in paragraph (c), he commits a Class A misdemeanor.

"(c) If a voter was last registered as a member of a party without a statewide organization during that calendar year and the party does not have an organization in the county where he is applying for registration, he is free to make whatever designation of party affiliation he chooses. A voter is also free to affiliate with a party without a statewide organization if the party did not have an organization in the county where he was previously registered at the time of his removal from that county.

"(d) A voter who was not registered in this state at any time during that calendar year is free to make whatever designation of party affiliation he chooses, regardless of any previous affiliation in this state or elsewhere."

Sec. 7. The Texas Election Code is amended by adding Section 179c, stating temporary rules for transition to the requirement that party affiliation be shown on the voter's registration record in order for the voter to participate in the affairs of a political party. Section 179c expires on February 1, 1980, and until then it reads as follows:

"179c. Transitional provisions on party affiliation

"Subdivision 1. On initial registration certificates issued pursuant to applications for registration which are received after September 30, 1977, the registrar shall show the voter's party affiliation as listed on the application. The registrar shall also show the voter's party affiliation on each list of registered voters on which the voter's name appears.

"Subdivision 2. Where a voter to whom a renewal registration certificate is mailed in the year 1977 or 1979 returns the accompanying change-of-information notice with a notation of party preference, the voter need not return the renewal certificate for addition of party affiliation and the registrar need not issue a corrected certificate showing the affiliation. However, the registrar shall show the voter's affiliation on each list of registered voters on which the voter's name thereafter appears and on each renewal certificate issued to a voter after the voter's affiliation is entered on the registration records.

"Subdivision 3. During the year 1978, a person who has affiliated with a party by stating a party preference on his application for registration or on a change-of-information notice may not vote in the primaries or participate in the conventions of any other party. When the voter votes in a primary or participates in a precinct convention of a party not holding primaries, the election officer or precinct chairman who accepts the voter shall stamp the party affiliation in the appropriate space on the voter's registration certificate if the name of the party does not already appear on the certificate.

"Subdivision 4. Until February 1, 1980, a person whose party affiliation is recorded on the registration records may change the affiliation at any time except during the period beginning with the 29th day before the general primary election day in 1978 and ending with the day of the succeeding general election, by following

the procedure outlined in paragraph (a) of Subdivision 5 of Section 179b (Article 13.01b, Vernon's Texas Election Code)."

Sec. 8. Subsection (a), Section 15, Texas Election Code, as amended (Article 3.01, Vernon's Texas Election Code), is amended to read as follows:

"(a) For county elections. The commissioners court at its July term shall appoint from among the citizens of each election precinct one qualified voter as presiding judge of elections held at the expense of the county in that precinct and one qualified voter as alternate presiding judge, each of whom shall continue to act until his successor is appointed. Whenever a vacancy arises in either of such offices, the commissioners court may fill the vacancy at any regular or special term of court. All orders appointing judges and alternates shall be entered of record. Each presiding judge shall appoint two qualified voters, who are residents of the precinct, to serve as election clerks, and shall appoint for each election as many additional clerks as he deems necessary for the proper conduct of the election, not to exceed the maximum number authorized by the commissioners court. The commissioners court shall fix the maximum number of clerks which may be appointed for each precinct, and may fix different maximums depending on the type of election. The clerks shall be selected from different political parties, when practicable. The chairman of the county executive committee of each of the two parties whose candidate for governor ~~[Governor]~~ received the most votes for governor ~~[Governor]~~ in the last prior general election for that office may submit a list of not less than two qualified nominees who are members of that party to each election judge at least 30 days prior to the date of a general election or 10 days prior to the date of a special election. If any such list is submitted to him, the election judge shall appoint at least one clerk from each list submitted. ~~[For the purpose of this section, the term 'members of that party' means persons who affiliated with the party in the manner prescribed in Section 179a of this code during the last preceding set of primary elections and conventions.]~~"

Sec. 9. Effective February 1, 1980, paragraph (b), Subdivision 1, Section 32a, Texas Election Code, as amended (Article 4.10, Vernon's Texas Election Code), is amended to read as follows:

"(b) In any special election for a statewide or district office which is regularly filled at the general election for state and county officers, the application shall also set forth the candidate's political party affiliation or shall state that the candidate is not affiliated with any political party. If the candidate is a registered voter, the party affiliation stated in the application must be the same as that shown on the registration records. If the candidate is not a registered voter, he may not claim to be affiliated with any political party."

Sec. 10. Paragraphs (a) and (c), Subdivision 3, Section 32a, Texas Election Code, as amended (Article 4.10, Vernon's Texas Election Code), are amended to read respectively as follows:

"(a) The application must be filed with the Secretary of State in the case of a statewide or district special election. It must be accompanied with a fee of \$1,000 for a statewide office, including without limitation the office of United States Senator, a fee of \$500 for the district office of United States Representative, a fee of \$400 for the district office of State Senator, and a fee of \$200 for the district office of State Representative; or, in lieu of the filing fee, the application must be accompanied with a petition signed by at least 5,000 registered voters of the state in the case of a statewide office, and by at least 500 registered voters of the district in the case of a district office. A petition must show the address, voter registration number, and date of signing for each signer. Any voter eligible to vote in the election may sign a petition, without regard to the party affiliation of the candidate or the signer. No person may sign the petition of more than one candidate for the same office, and if a person signs the petition of more than one candidate, the

signature is void as to all such petitions. A petition may be in multiple parts. To each part, which may consist of one or more sheets, there must be attached the affidavit of some registered voter, giving his address and voter registration number, and stating that each signature appearing in that part of the petition was affixed in the presence of the affiant and that to the best knowledge and belief of the affiant each signature is genuine and each person signing was a registered voter at the time of signing. A petition so verified is prima facie evidence that the signatures thereon are genuine and that the persons signing it are registered voters. Fees received under this subdivision shall be deposited in the general revenue fund of the state."

"(c) The party affiliation of the candidate shall be printed on the official ballot following the name of the candidate. If the candidate ~~(has stated in his application that he)~~ is not affiliated with any political party, the word 'Independent' shall be printed on the ballot following the candidate's name. In other respects, the ballot shall be printed as indicated in Section 61 of this code (Article 6.05, Vernon's Texas Election Code) for a special election in which no party nomination has been made."

Sec. 11. Section 45b, Texas Election Code, as amended (Article 5.13b, Vernon's Texas Election Code), is amended by adding Subdivision 3, to read as follows:

"Subdivision 3. Political party affiliation. In addition to the requirements stated in Subdivision 1 of this section, the application form shall contain a space for listing the applicant's political party affiliation or preference, as provided in Section 179b of this code (Article 13.01b, Vernon's Texas Election Code)."

Sec. 12. Subdivision 2, Section 46a, Texas Election Code, as amended (Article 5.14a, Vernon's Texas Election Code), is amended by adding paragraph (b-1), to read as follows:

"(b-1) The form provided with a renewal registration certificate for the voter's use in notifying the registrar of changes in registration information shall contain a blank space expressly labeled to be for the purpose of entering a change in the designation of party affiliation. (With the renewal certificates mailed in 1977 and 1979, the blank space shall be for the purpose of making an original designation by those voters who applied for registration before September 1, 1977, and have not yet declared a party preference.) With the initial mailing of the renewal certificates and with the mailing of notices to voters whose renewal certificates are returned undelivered, the registrar shall include a notice, to be prescribed by the secretary of state, informing the voter of the necessity to be registered as affiliated with a political party in order to vote in primary elections or to participate in other affairs of the party, beginning February 1, 1980, and further informing the voter of the procedure and the deadline dates for making or changing the designation of party affiliation."

Sec. 13. Effective February 1, 1980, paragraph (a), Subdivision 3, Section 46a, Texas Election Code, as amended (Article 5.14a, Vernon's Texas Election Code), is amended to read as follows:

"(a) Each certificate shall show the voter's name, permanent residence address, mailing address if any, sex, election precinct number, political party affiliation, and if an initial certificate, the effective date of the registration. [It shall contain a blank space for political party affiliation of the voter, to be completed as provided in Section 179a, of this code (Article 13.01a, Vernon's Texas Election Code).] It shall not show the voter's telephone number or social security number. The certificate shall have a place for the voter's signature, and shall contain or be accompanied by a written instruction to the voter that the certificate is to be signed by the voter personally immediately upon receipt, if the voter is able to sign his name. Each certificate shall clearly indicate the two-year period for which it is issued, and shall contain a statement that the voter shall receive a new certificate

every two years so long as such voter does not become disqualified under some provision of the election laws. Each certificate shall contain a statement giving notice that voting by use of the certificate by any person other than the person in whose name the certificate is issued is a felony. Voting by use of certificate which has been issued to another is hereby expressly made a felony of the third degree."

Sec. 14. Effective February 1, 1980, Subsection (1), Section 51a, Texas Election Code, as amended (Article 5.19a, Vernon's Texas Election Code), is amended to read as follows:

"(1) Before the first day of March each year, the registrar shall prepare for each election precinct of the county a certified list of registered voters who, as of the 30th day prior to March 1 are entitled to registration for the voting year in which March 1 falls. Each precinct list shall be arranged alphabetically by the names of the voters and showing each voter's name, residence address, sex, date of birth, ~~and~~ registration number, and political party affiliation. The registrar shall deliver to each board, executive committee, or other authority having the duty of furnishing supplies for any general, special, or primary election to be held within the county during the voting year for which the list is prepared, one set of such lists for all precincts in the county if any election which may be held by such authority is countywide, and one set of such lists for all precincts wholly or partially within the boundaries of the particular political subdivision if all elections which may be held by such authority are less than countywide. Before the first day of absentee voting in each election, the [The] registrar shall also furnish to each such authority an updated supplemental list of the voters in each precinct who will have been registered for 29 days on the day of the election and whose names do not appear on the original list. When a runoff election is held, before the first day of absentee voting in the runoff election the registrar shall prepare a supplemental list of the voters who will have been registered for 29 days on the day of the election and whose names do not appear on the original list or the supplemental list prepared for the first election. With each supplemental list the registrar shall also furnish a list of persons whose registration information has been changed or corrected or whose registration has been cancelled or transferred to another precinct since preparation of the last set of lists. The authority shall furnish to the presiding judge in each precinct the original and supplemental lists of voters in his precinct at the time it furnishes other election supplies. Prior to the opening of the polls, the presiding judge shall strike from the registration list the names of persons whose registration has been cancelled or transferred to another precinct, and shall correct the list for persons whose registration information has been changed or corrected."

Sec. 15. Effective February 1, 1980, Subdivisions 4 and 5, Section 227, Texas Election Code, as amended (Article 13.50, Vernon's Texas Election Code), are amended to read respectively as follows:

"Subdivision 4. No application may ~~shall~~ contain the name of more than one candidate. No person may ~~shall~~ sign the application of more than one candidate for the same office; and if any person signs the application of more than one candidate for the same office, the signature is ~~shall be~~ void as to all such applications. No person may ~~shall~~ sign such application unless he is a qualified voter, and no person may sign an application if during that voting year he has voted in a primary election or participated in a convention of a political party which is making a nomination for the office sought by the independent candidate (who has voted at either the general primary election or the runoff primary election of any party shall sign an application in favor of anyone for an office for which a nomination was made at either such primary election).

"Subdivision 5. In addition to the person's signature, the application shall show each signer's address, the number of his voter registration certificate, and the date of signing. An application may not be circulated for signatures before the 29th

day preceding the general primary election. No person who is registered as a member of a political party may sign an application until after the date of the general primary election."

Sec. 16. Effective February 1, 1980, Section 228, Texas Election Code, as amended (Article 13.51, Vernon's Texas Election Code), is amended to read as follows:

"228. Oath to application

"Subdivision 1. To every person [citizen] who signs such application, there shall be administered the following oath, which shall be reduced to writing and attached to such application: 'I know the contents of the foregoing application; during the current voting year I have not voted in a primary election or participated in a convention of a political party which is making a nomination [I have not participated in the general primary election or the runoff primary election of any party which has nominated, at either such election, a candidate] for the office for which I desire _____ (here insert the name of the candidate) to be a candidate, and I will not vote in a primary election or participate in a convention of any such party during the remainder of this voting year; I am a qualified voter at the next general election under the Constitution and laws in force and have signed the above application of my own free will.' One certificate of the officer before whom the oath is taken may be so made as to apply to all to whom it was administered.

"Subdivision 2. Any person who signs an application after having voted in a primary election or participated in a convention of a political party which is making a nomination for the office sought by the independent candidate, or who votes in a primary election or participates in a convention of any such party during the same voting year after having signed the application, is guilty of a misdemeanor and upon conviction shall be fined not less than \$100 nor more than \$500."

Sec. 17. Section 231, Texas Election Code, as amended (Article 13.54, Vernon's Texas Election Code), is amended to read as follows:

"231. Nominations by parties without state organization

"Any political party without a state organization desiring to nominate candidates for county and precinct offices only may nominate such candidates therefor by a county convention held on the second Saturday in May of the election year, which convention shall be composed of delegates from the various election precincts in the county, elected therein at conventions held in such precincts on the first Saturday in May. All nominations made by any such parties shall be certified to the county clerk by the chairman of the county committee of such party, and, after taking the same course as nominations of other parties so certified, shall be printed on the official ballot in a separate column, headed by the name of the party; provided, a written application for such printing shall have been made to the county judge not later than June 30 following the conventions, signed by qualified voters of the county equal in number to at least three per cent of the entire vote cast for governor in such county at the last general election for that office. No person who has voted in a primary election or participated in a convention of any other party during that voting year ~~[is affiliated with any other political party]~~ is eligible to sign the application. The application shall contain the following information with respect to each person signing it: his address, the number of his voter registration certificate, and the date of signing. The application may not be circulated for signatures until after the date of the precinct conventions, and any signatures obtained on or before that date are void. The application may be in multiple parts. To each part there shall be attached an affidavit of the person who circulated it, who must be a registered voter in the county, stating that he witnessed the affixing of each signature, that the correct date of signing is shown on the application, and that to his best knowledge and belief each signature is the genuine signature of the person whose name is signed. An application so verified is prima facie evidence that the

signatures thereon are genuine and that the persons signing it are qualified voters of the county."

Sec. 18. Sections 189a and 226, Texas Election Code (Articles 13.11a and 13.49, Vernon's Texas Election Code), are repealed.

The amendment was read.

Senator Ogg raised the Point of Order that the amendment was not germane to the bill.

The President sustained the Point of Order.

The bill was passed to third reading.

HOUSE BILL 1125 ON THIRD READING

Senator Ogg moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1125** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Mengden, Santiesteban.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

HOUSE BILL 1193 ON SECOND READING

On motion of Senator Andujar and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1193, Relating to acquisition of a site for the Texas College of Osteopathic Medicine.

The bill was read second time and was passed to third reading.

HOUSE BILL 1193 ON THIRD READING

Senator Andujar moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1193** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Mengden, Santiesteban.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

HOUSE BILL 371 ON SECOND READING

On motion of Senator Traeger and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 371, Increasing the household and kitchen furniture property tax exemption.

The bill was read second time and was passed to third reading.

HOUSE BILL 371 ON THIRD READING

Senator Traeger moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 371** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Mengden, Santiesteban.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

MOTION TO PLACE HOUSE BILL 586 ON SECOND READING

Senator Meier moved to suspend the regular order of business to take up for consideration at this time:

H.B. 586, A bill to be entitled An Act relating to the suspension of driver's license, permit, or privilege of a minor who drives while intoxicated or while under the influence of alcohol.

The motion was lost by the following vote (Not receiving two-thirds vote of the Members present): Yeas 16, Nays 13.

Yeas: Adams, Andujar, Farabee, Hance, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Meier, Ogg, Patman, Sherman, Snelson, Traeger, Truan, Williams.

Nays: Aikin, Braecklein, Brooks, Clower, Creighton, Doggett, Harris, Longoria, Mauzy, McKnight, Moore, Parker, Schwartz.

Absent-excused: Mengden, Santiesteban.

HOUSE BILL 1799 ON SECOND READING

Senator Sherman moved to suspend the regular order of business to take up for consideration at this time:

H.B. 1799, The Texas Energy Development Act of 1977.

The motion prevailed by the following vote: Yeas 19, Nays 9.

Yeas: Adams, Aikin, Andujar, Brooks, Clower, Creighton, Doggett, Farabee, Hance, Harris, Jones of Harris, Ogg, Parker, Patman, Schwartz, Sherman, Snelson, Truan, Williams.

Nays: Braecklein, Jones of Taylor, Kothmann, Lombardino, Longoria, Mauzy, McKnight, Moore, Traeger.

Absent: Meier.

Absent-excused: Mengden, Santiesteban.

The President then laid the bill before the Senate on its second reading and passage to third reading.

The bill was read second time.

Senator Sherman offered the following committee amendment to the bill:

Amend **H.B. 1799** by deleting Section 5 in its entirety and substituting in lieu thereof the following:

Sec. 5. CREATION OF THE ENERGY DEVELOPMENT FUND BOARD. (a) There is created an Energy Development Fund Board which shall consist of the members of the Texas Energy Advisory Council.

The committee amendment was read and was adopted.

Senator Sherman offered the following amendment to the bill:

Amend House Bill 1799 by adding the following as new Sec. 8 and renumbering subsequent sections accordingly:

Sec. 8. INITIAL APPROPRIATION. There is hereby appropriated to the Energy Development Fund from the General Revenue Fund the sum of \$1,500,000.

The amendment was read and was adopted.

On motion of Senator Sherman and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

HOUSE BILL 1799 ON THIRD READING

Senator Sherman moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1799** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 24, Nays 5.

Yeas: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Hance, Harris, Jones of Harris, Jones of Taylor, Lombardino, Longoria, Meier, Ogg, Parker, Patman, Schwartz, Sherman, Snelson, Truan, Williams.

Nays: Kothmann, Mauzy, McKnight, Moore, Traeger.

Absent-excused: Mengden, Santiesteban.

The President laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

RECORD OF VOTES

Senators McKnight and Mauzy asked to be recorded as voting "Nay" on the final passage of the bill.

COMMITTEE SUBSTITUTE HOUSE BILL 400 ON SECOND READING

Senator Brooks moved to suspend the regular order of business to take up for consideration at this time:

C.S.H.B. 400, Relating to a city's providing fire protection in designated industrial districts within its extraterritorial jurisdiction; amending the Municipal Annexation Act, as amended (Article 970a, Vernon's Texas Civil Statutes), by adding Section 5A.

The motion prevailed by the following vote: Yeas 24, Nays 4.

Yeas: Aikin, Andujar, Braecklein, Brooks, Clower, Doggett, Farabee, Hance, Jones of Harris, Kothmann, Lombardino, Longoria, Mauzy, McKnight, Meier, Ogg, Parker, Patman, Schwartz, Sherman, Snelson, Traeger, Truan, Williams.

Nays: Adams, Creighton, Harris, Moore.

Absent: Jones of Taylor.

Absent-excused: Mengden, Santiesteban.

The President then laid the bill before the Senate on its second reading and passage to third reading.

The bill was read second time and was passed to third reading.

COMMITTEE SUBSTITUTE HOUSE BILL 400 ON THIRD READING

Senator Brooks moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.H.B. 400** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 4.

Yeas: Aikin, Andujar, Braecklein, Brooks, Clower, Doggett, Farabec, Hance, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, Mauzy, McKnight, Meier, Ogg, Parker, Patman, Schwartz, Sherman, Snelson, Traeger, Truan, Williams.

Nays: Adams, Creighton, Harris, Moore.

Absent-excused: Mengden, Santiesteban.

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

RECORD OF VOTE

Senator Creighton asked to be recorded as voting "Nay" on the final passage of the bill.

CONFERENCE COMMITTEE REPORT SENATE BILL 182

Senator Ogg submitted the following Conference Committee Report:

Austin, Texas
May 28, 1977

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on Senate Bill 182 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

OGG
ANDUJAR
PARKER
TRAEGER
On the part of the Senate

UNTERMEYER
DELCO
JACKSON
MALONEY
TEJEDA
On the part of the House

CONFERENCE COMMITTEE REPORT

S.B. No. 182

A BILL TO BE ENTITLED

AN ACT

relating to the requirements for an emergency admission, under a warrant or order of protective custody and a certified opinion by a medical officer as to the person's symptoms, of a mentally ill person to a hospital or other facility; amending Section 28 of the Texas Mental Health Code, as amended (Article 5547-28, Vernon's Texas Civil Statutes); and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Section 28 of the Texas Mental Health Code, as amended (Article 5547-28, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 28. Emergency admission. The head of a mental hospital, a general hospital, or other facility deemed suitable by the county health officer shall not admit nor detain any person for emergency observation and treatment unless:

"(a) A warrant has been obtained from a magistrate ordering the apprehension and taking into custody of such person to be admitted, or an order of protective custody has been issued pursuant to Section 66 of this Code; and

~~"(b) [A written application is made by a health or peace officer who has such person in his custody stating the circumstances under which the person was taken into custody and the officer's belief and the reasons therefor that the person is mentally ill and that because of his mental illness is likely to cause injury to himself or others if not immediately restrained; and~~

~~"(c)]~~ A written and certified opinion is made by the medical officer on duty at the hospital or other facility, that after a preliminary examination, the person has symptoms of mental illness and is likely to cause injury to himself or others if not immediately restrained."

Sec. 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT SENATE BILL 1226

Senator Sherman submitted the following Conference Committee Report:

Austin, Texas
May 28, 1977

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **S.B. 1226** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

SHERMAN
MEIER
ADAMS
SCHWARTZ
FARABEE
On the part of the Senate

GRANT
ALLRED
LOONEY
KUBIAK
On the part of the House

CONFERENCE COMMITTEE REPORT

By: Sherman

S.B. No. 1226

A BILL TO BE ENTITLED

AN ACT

relating to the accessibility and confidentiality of information held by certain governmental bodies and agencies; amending Sections 1, 8, and 14 and Subsection (a) of Section 3, and repealing Subsection (c) of Section 3 and Sections 10 and 12, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-17a, Vernon's Texas Civil Statutes); and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Section 1, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-17a, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 1. Declaration of policy. (a) Pursuant to the fundamental philosophy of the American constitutional form of representative government which holds to the principle that government is the servant of the people, and not the master of them, it is hereby declared to be the public policy of the State of Texas that all persons are, unless otherwise expressly provided by law, at all times entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created. To that end, the provisions of this Act shall be liberally construed with the view of carrying out the above declaration of public policy.

"(b) This Act does not limit any other right to information provided by statute, ordinance, judicial decision, court rule or order, administrative rule or regulation, or constitutional law. This Act does not make any information confidential or restrict public access to information which heretofore has been available for public inspection. Information not required to be disclosed by this Act

may be made public in the discretion of the custodian of the public records unless prohibited by other law."

Sec. 2. Subsection (a), Section 3, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-17a, Vernon's Texas Civil Statutes), is amended to read as follows:

"(a) All information collected, assembled, or maintained by governmental bodies pursuant to law or ordinance or in connection with the transaction of official business is public information and available to the public during normal business hours of any governmental body, with the following exceptions only:

"(1) information deemed confidential by law, either Constitutional, statutory, or by judicial decision;

"(2) information in personnel files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; provided, however, that all information in personnel files of an individual employee within a governmental body is to be made available to that individual employee or his designated representative as is public information under this Act;

"(3) information relating to litigation of a criminal or civil nature and settlement negotiations, to which the state or political subdivision is, or may be, a party, or to which an officer or employee of the state or political subdivision, as a consequence of his office or employment, is or may be a party, that the attorney general or the respective attorneys of the various political subdivisions has determined should be withheld from public inspection;

"(4) information which, if released, would give advantage to competitors or bidders;

"(5) information pertaining to the location of real or personal property for public purposes prior to public announcement of the project, and information pertaining to appraisals or purchase price of real or personal property for public purposes prior to the formal award of contracts therefor;

"(6) drafts and working papers involved in the preparation of proposed legislation;

"(7) matters in which the duty of the Attorney General of Texas or an attorney of a political subdivision, to his client, pursuant to the Rules and Canons of Ethics of the State Bar of Texas are prohibited from disclosure, or which by order of a court are prohibited from disclosure;

"(8) records of law enforcement agencies that deal with the detection and investigation of crime and the internal records and notations of such law enforcement agencies which are maintained for internal use in matters relating to law enforcement;

"(9) private correspondence and communications of an elected office holder relating to matters the disclosure of which would constitute an invasion of privacy;

"(10) trade secrets and commercial or financial information obtained from a person and privileged or confidential by statute or judicial decision;

"(11) inter-agency or intra-agency memorandums or letters which would not be available by law to a private party ~~[other than one]~~ in litigation with the agency;

"(12) information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions, and/or securities, as that term is defined in the Texas Securities Act;

"(13) geological and geophysical information and data including maps concerning wells, except information filed in connection with an application or proceeding before any agency;

"(14) student records at educational institutions funded wholly, or in part, by state revenue; but such records shall be made available upon request of educational institution personnel with legitimate educational interests, the parent, legal guardian

or conservator of a child student or parent of a dependent student, or the student involved if he or she is adult or attends a postsecondary educational institution ~~[the student involved, or that student's parent, legal guardian, or spouse];~~

"(15) birth and death records, the inspection and copying of which shall be in accordance with Article 4477, Revised Civil Statutes of Texas, 1925, as amended [maintained by the Bureau of Vital Statistics in the State of Texas];

"(16) the audit working papers of the State Auditor."

Sec. 3. Section 8, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-17a, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 8. Writ of mandamus. (a) If a governmental body refuses to request an attorney general's decision as provided in this Act, or to supply public information or information which the attorney general has determined to be a public record, the person requesting the information or the attorney general may seek a writ of mandamus compelling the governmental body to make the information available for public inspection.

"(b) The court may assess against the governmental body reasonable attorney's fees and other litigation costs reasonably incurred in any case under this section in which the complainant has substantially prevailed. In exercising its discretion, the court shall consider the following criteria:

"(1) whether the governmental body's withholding of the information sought had a reasonable basis in law;

"(2) the nature of the complainant's interest in the records sought;

"(3) the commercial benefit to the complainant, other than incidental benefit in connection with the dissemination of news to the general public;

"(4) the benefit to the public, if any, deriving from the case."

Sec. 4. Section 14, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-17a, Vernon's Texas Civil Statutes), is amended by adding a new Subsection (f) to read as follows:

"(f) If it is determined that the release of information under this Act would cause the denial of funds, services, or essential information from the United States Government which otherwise definitely would be available to a governmental body, the information may be withheld from required disclosure, but only to the extent necessary to prevent denial of such funds, services, or essential information."

Sec. 5. Subsection (c), Section 3, and Sections 10 and 12 of Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-17a, Vernon's Texas Civil Statutes), are repealed.

Sec. 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

VOTE ON ADOPTION OF CONFERENCE COMMITTEE REPORT ON SENATE BILL 152 RECONSIDERED

On motion of Senator Meier and by unanimous consent, the vote by which the Conference Committee Report on S.B. 152 was adopted was reconsidered.

Question - Shall the Conference Committee Report on S.B. 152 be adopted?

SENATE BILL 1275 WITH HOUSE AMENDMENTS

Senator Farabee called S.B. 1275 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1

Substitute the following for S.B. No. 1275

A BILL TO BE ENTITLED

AN ACT

relating to workers' compensation regulations and benefits and to confidentiality of certain records; amending Section 12c, Article 8306, Revised Civil Statutes of Texas, 1925, as amended; amending Section 12c-1, Article 8306, Revised Civil Statutes of Texas, 1925, as amended; amending Article 8307, Revised Civil Statutes of Texas, 1925, as amended, by adding Section 9a; amending Subsection (c), Section 29, Article 8306, Revised Civil Statutes of Texas, 1925, as added; amending Section 10, Article 8307, Revised Civil Statutes of Texas, 1925, as amended, and making an appropriation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Section 12c, Article 8306, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"Section 12c. If an employee who has suffered a previous injury shall suffer a subsequent injury which results in a condition of incapacity to which both injuries or their effects have contributed, the association shall be liable because of such injury only for the compensation to which the subsequent injury would have entitled the injured employee had there been no previous injury; provided that there shall be created a fund known as the 'Second Injury Fund,' hereinafter described, from which an employee who has suffered a subsequent injury shall be compensated for the combined incapacities resulting from both injuries. Provided further, however, that notice of injury to the employer and filing of a claim with the Industrial Accident board, as required by law, shall also be deemed and considered notice to and filing of a claim against the 'Second Injury Fund. [for all compensation provided by this Act, but said association shall be reimbursed from the 'Second Injury Fund' as hereinafter described, to the extent that the previous injury contributes to the combined incapacity.]"

Sec. 2. Section 12c-1, Article 8306, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"Section 12c-1. If an employee who has previously lost, or lost the use of, one hand, one arm, one foot, one leg, or one eye, becomes permanently and totally incapacitated through the loss or loss of use of another member or organ, the association shall be liable only for the [all] compensation payable for such second injury; provided, however, that in addition to such compensation and after the combination of the payments therefor, the employee shall be paid the remainder of special fund known as 'Second Injury Fund,' hereinafter defined [by this Act, not to exceed 401 weeks, but said association shall be reimbursed from the 'Second Injury Fund,' as hereinafter described, to the extent that its payment exceeds the amount due for the second injury as above set out. In order to qualify for reimbursement from the 'Second Injury Fund' under this section, the association must file its claim

~~with the Industrial Accident Board within 100 days following date of injury, together with evidence of its payment of all compensation provided by this Act and of the preexisting permanent physical impairment qualifying the association for such reimbursement. Good cause for late filing as set forth in Section 4(a), Article 8307, Revised Civil Statutes of Texas, 1925, as amended, shall also apply in such claims for reimbursement. Provided further, if the association makes payment in a lump sum to the injured claimant, the association shall be entitled to reimbursement from the 'Second Injury Fund' by lump sum payment]."~~

Sec. 3. Article 8307, Revised Civil Statutes of Texas, 1925, as amended, is amended by adding Section 9a to read as follows:

"Section 9a. 9a.(a) Information in a worker's claim file is confidential and may not be disclosed except as provided in this section.

"(b) If there is a workers' compensation claim for the named claimant open or pending before the Industrial Accident Board or on appeal to a court of competent jurisdiction from the Board or which is the subject matter of a subsequent suit where the carrier is subrogated to the rights of the named claimant at the time a record search or request or request for information is presented to the Board, the information shall be furnished as provided in this section. The first, middle, and last name of the claimant, age and social security number, and, if possible, dates of injury and the names of prior employers must be given in the request for information by the requesting party. The Board will furnish the requested information or a record check only to the following:

- "(1) the claimant;
- "(2) the attorney for the claimant;
- "(3) the carrier;
- "(4) the employer at the time of the current injury; or
- "(5) third party litigants.

A third party litigant in a suit arising out of an occurrence with respect of which a worker's compensation claim was filed is entitled to the information without regard to whether or not the compensation claim is still pending.

"(c) All information of the Industrial Accident Board concerning any person who has been finally adjudicated to be a fraudulent claimant as provided in this section is not confidential and shall be furnished to any person requesting the information notwithstanding any other provision of this law.

"(d) The Board shall release to any employer with whom a person has made application for employment within the fourteen (14) days prior to the request the date of injury and nature of injury to that person if that person has had three or more general injury claims filed in the preceding five years in which weekly compensation payments have been made. The request for information shall give the name, address, and social security number of the person about whom information is sought. The Board may release this information only if the employer has written authorization from the person about whom information is sought. The Board may release the information by telephone, but the employer must file the written authorization with the board within ten (10) days after the information is released. If the employer requests information about three (3) or more persons at the same time, the Board may refuse to release the information except on written request from the employer and receipt of the written authorization from each person about whom the information is sought. An employer who receives the information but fails to file the authorization within the required period is guilty of a misdemeanor and on conviction shall be fined not more than One Thousand Dollars (\$1,000). Failure to file each authorization is a separate offense.

"(e)(1) The Attorney General shall promptly investigate any allegation of fraud on the part of an employer, employee, attorney, doctor, or insurance company or its representative relating to any claim. In order to carry out the requirements of

this section, the Attorney General is vested with complete power to investigate and prosecute any and all allegations of fraudulent claim practices which may be submitted to the Board or which may be uncovered through the Attorney General's own efforts. The Attorney General shall cooperate with professional grievance committees, law enforcement officials, the Industrial Accident Board and other state agencies in the investigation and prosecution of fraudulent practices. It shall be the responsibility of the Attorney General to prosecute those cases in which it finds the reasonable probability that acts of fraud exist before all hearings of the Board or on appeal from the determination of such hearings.

"(2) In those cases in which a claimant makes a fifth claim for compensation within any five-year period, the Board shall automatically notify the Attorney General who shall investigate to determine if the probability of fraud exists in connection with the current claim or any of the prior claims.

"(3) If the Attorney General finds that a reasonable probability of fraud exists, the Attorney General shall request a hearing and the Board shall set the matter for hearing. On the setting of this matter, the Board shall promptly notify the person under investigation in writing of the allegation against him and of his rights to attend and offer evidence at the hearing. This notice must be mailed by certified mail to the last known address of the person, must state the time and place for the hearing, which shall be within forty-five (45) days after determination by the Attorney General that the probability of fraudulent acts exists and must notify the person of his right to counsel and his right of access to the complete Board files relating to the claim or claims under investigation. This notice shall be forwarded to the person, return receipt requested, acknowledging receipt at least thirty (30) days before the hearing. Any investigation initiated under this section shall be concluded within sixty (60) days unless by a unanimous vote of the Board the time is extended, which in no event may be more than an additional sixty (60) days.

"(f) In addition to the powers granted under Section 4 of this article, as amended, the Board or any member thereof has the power to compel the attendance of witnesses, take evidence, and require the production of any records in conjunction with this hearing. The person under investigation has the same power to compel the attendance of witnesses and the production of records and documents.

"(g) After this hearing, the Board shall reduce its findings to writing and provide the person under investigation with a copy. If the Board determines that the claimant has been fraudulent in any or all of his claims for compensation, the Board shall then classify that claimant as a fraudulent claimant, which designation is final unless appealed by the claimant as provided in this section. If the Board determines that any other person except an employer under investigation has been fraudulent in connection with a claim for compensation, the Board may exercise its authority under Section 4 of this article, as amended, or report its findings to the appropriate professional grievance committee, law enforcement officials, or other state agencies for prosecution, or both. An employer who has been adjudicated to be fraudulent shall be subject to the provisions of Chapter 115, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8307c, Vernon's Texas Civil Statutes), as if he had discriminated against an employee for filing a claim. Actions taken by the Board in accordance with this procedure may be appealed by the aggrieved person by trial de novo to a district court of competent jurisdiction in the county of his residence, whose final judgment shall be determinative of his classification as a fraudulent claimant. Appeal shall be in accordance with Section 5 of this article, as amended.

"(h) Pending an investigation and hearing or appeal of allegations of fraud under this section, the Board may not approve a compromise settlement agreement or make a final award in connection with the worker's claims then pending before the Board.

"(i) If any worker is finally adjudicated to be a fraudulent claimant, that fact shall automatically be furnished to any employer, any insurance carrier, or any attorney for the claimant as regards all claims then pending before the Board and as regards all future claims which that claimant may thereafter file with the Industrial Accident Board; otherwise, the Board shall process the claim as generally provided under the workers' compensation law.

"(j) Nothing in the preceding sections shall diminish the power of the Industrial Accident Board on its own initiative to investigate or punish fraudulent acts.

"(k) This section does not give authority to withhold information from committees of the legislature to use for legislative purposes.

"(l) Any information pertaining to a worker's compensation file which is confidential by virtue of any of the terms of this Act shall retain such confidentiality when released to any investigative, legislative, or law enforcement agency including the Attorney General, District Attorneys, Grand Juries, or Legislative Committees. Any individual who shall publish, disclose, or distribute any such confidential information which is possessed by any investigative, legislative, or law enforcement agency to any other individual, corporation, or association not entitled to have received such information directly from the Industrial Accident Board under the provisions of this law commits an offense, and any person, corporation, or association who receives any such confidential information when such person was not entitled to have received the same from the Industrial Accident Board under the provisions of this law commits an offense. An offense under this subsection is a Class A misdemeanor. Any District Court of Travis County shall have jurisdiction to enjoin possession and the use by any individual, corporation, or association of any information made confidential by this Act when such possession or use is not authorized by this Act. This subsection does not prohibit an employer from releasing information about a former employee to another employer with whom the employee has made application for employment, provided such information was lawfully acquired by the employer releasing the same.

"(m) Nothing herein prohibits any person from receiving from the Industrial Accident Board all information contained in any record or file of the Industrial Accident Board begun after December 31, 1971, in statistical form and in a manner so as not to disclose the name or identity of any person, except as provided in this section.

"(n) Notwithstanding any other provision of law, a hospital or clinic shall release to any party entitled to information of the Board under Subsection (b) of this section the medical records in the custody of the hospital or clinic relating to the treatment of injuries for which a claim for compensation has been made.

"(o) All money paid out by the Association for the benefit of any injured worker shall be reported in full to the Board, whether or not a claim for compensation was filed, and such information shall be recorded by the board."

Sec. 4. Section 10, Article 8307, Revised Civil Statutes of Texas, 1925, as amended, is amended by adding Subsection (c) to read as follows:

"(c) The Board and its members shall keep a complete mechanical, electronic, or stenographic record of all hearings except pre-hearings."

Sec. 5. Subsection (c), Section 29, Article 8306, Revised Civil Statutes of Texas, 1925, as added, is amended to read as follows:

"(c) If the annual average of the manufacturing production workers average weekly wage in Texas exceeds by Ten Dollars (\$10) the average weekly wage for those workers in 1974 as determined by the Texas Employment Commission and published in its report, 'The Average Weekly Wage,' the maximum weekly benefit shall be increased by Seven Dollars (\$7) and the minimum weekly benefit shall be increased by One Dollar (\$1) above the amounts specified in Subsection (b) of this

section beginning with the commencement of the state fiscal year following the publication of the report. Thereafter, each cumulative ~~[additional]~~ Ten Dollar (\$10) increase in the average weekly wage for manufacturing production workers in Texas as annually determined and reported by the Texas Employment Commission shall increase cumulatively the maximum weekly benefit by an additional Seven Dollars (\$7) and the minimum weekly benefit by an additional One Dollar (\$1) beginning with the commencement of the state fiscal year following the publication the report."

Sec. 6. For the purpose of carrying out the investigations required by this Act, there is appropriated to the Attorney General's Office from the General Revenue Fund the amount of \$80,560 for the year ending August 31, 1978, and \$87,060, for the year ending August 31, 1979.

Sec. 7. (a) It is the intent of the legislature that a system of self-insurance for worker's compensation liabilities for Texas employers be adopted by the 66th Legislature. There is hereby created a Study Commission on Texas Worker's Compensation to prepare legislative recommendations in compliance with this stated intent.

(b) The commission shall consist of the following members:

(1) four members appointed by the speaker of the house, one of whom he shall designate as chairman;

(2) four members appointed by the lieutenant governor, one of whom he shall designate as vice-chairman; and

(3) four members appointed by the governor.

(c) The commission shall meet and organize before September 1, 1977. Appointments shall be made by the appropriate official by notifying the secretary of state in writing at least two weeks prior to the organizational meeting of the commission. The commission shall meet as often as necessary to carry out its purposes.

(d) The legislative council shall provide staff assistance to the commission if necessary.

(e) The Industrial Accident Board and the State Board of Insurance shall provide all information and reports which the commission requests and cooperate to the fullest possible extent to assist the commission in this study.

(f) No member of the commission shall be entitled to any compensation, except all reasonable travel and other expenses shall be paid to the commission members. Any commission member who is a member of the legislature shall be entitled to reimbursement of his expenses from the appropriate contingent expense fund.

(g) The commission is authorized to employ such staff as it sees fit to carry out its function.

(h) The commission shall have authority to adopt reasonable rules and regulations in relation to such items as meetings, quorums, voting, and other matters relating to the orderly conduct of its business.

(i) The commission shall make specific recommendations, including proposed legislation to the governor, lieutenant governor, speaker of the house, legislative council, and members of the legislature on or before November 15, 1978. The report shall offer specific recommendations and legislation designed to enact a program of self-insurance of worker's compensation liability.

Sec. 8. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Floor Amendment No. 1

Amend S.B. 1275 by striking all below the enacting clause and substitute therefore the following:

Section 1. Section 12c, Article 8306, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"Section 12c. If an employee who has suffered a previous injury shall suffer a subsequent injury which results in a condition of incapacity to which both injuries or their effects have contributed, the association shall be liable because of such injury only for the compensation to which the subsequent injury would have entitled the injured employee had there been no previous injury; provided that there shall be created a fund known as the 'Second Injury Fund,' hereinafter described, from which an employee who has suffered a subsequent injury shall be compensated for the combined incapacities resulting from both injuries. Provided further, however, that notice of injury to the employer and filing of a claim with the Industrial Accident Board, as required by law, shall also be deemed and considered notice to and filing of a claim against the 'Second Injury Fund.' ~~{for all compensation provided by this Act, but said association shall be reimbursed from the 'Second Injury Fund' as hereinafter described, to the extent that the previous injury contributes to the combined incapacity.}~~"

Sec. 2. Section 12c-1, Article 8306, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"Section 12c-1. If an employee who has previously lost, or lost the use of, one hand, one arm, one foot, one leg, or one eye, becomes permanently and totally incapacitated through the loss or loss of use of another member or organ, the association shall be liable only for the [all] compensation payable for such second injury; provided, however, that in addition to such compensation and after the combination of the payments therefor, the employee shall be paid the remainder of the compensation that would be due for the total permanent incapacity out of the special fund known as 'Second Injury Fund,' hereinafter defined [by this Act, not to exceed 401 weeks, but said association shall be reimbursed from the 'Second Injury Fund,' as hereinafter described, to the extent that its payment exceeds the amount due for the second injury as above set out. In order to qualify for reimbursement from the 'Second Injury Fund' under this section, the association must file its claim with the Industrial Accident Board within 100 days following date of injury, together with evidence of its payment of all compensation provided by this Act and of the preexisting permanent physical impairment qualifying the association for such reimbursement. Good cause for late filing as set forth in Section 4(a), Article 8307, Revised Civil Statutes of Texas, 1925, as amended, shall also apply in such claims for reimbursement. Provided further, if the association makes payment in a lump sum to the injured claimant, the association shall be entitled to reimbursement from the 'Second Injury Fund' by lump sum payment]."

Sec. 3. Article 8307, Revised Civil Statutes of Texas, 1925, as amended, is amended by adding Section 9a to read as follows:

"Section 9a. (a) Information in a worker's claim file is confidential and may not be disclosed except as provided in this section.

"(b) If there is a workers' compensation claim for the named claimant open or pending before the Industrial Accident Board or on appeal to a court of competent jurisdiction from the Board or which is the subject matter of a subsequent suit where the carrier is subrogated to the rights of the named claimant at the time a record search or request for information is presented to the Board, the information shall be furnished as provided in this section. The first, middle, and last name of the claimant, age and social security number, and, if possible, dates of injury and the

names of prior employers must be given in the request for information by the requesting party. The Board will furnish the requested information or a record check only to the following:

- "(1) the claimant;
- "(2) the attorney for the claimant;
- "(3) the carrier;
- "(4) the employer at the time of the current injury; or
- "(5) third party litigants.
- "(6) the State Board of Insurance

A third party litigant in a suit arising out of an occurrence with respect of which a worker's compensation claim was filed is entitled to the information without regard to whether or not the compensation claim is still pending.

"(c) All information of the Industrial Accident Board concerning any person who has been finally adjudicated to be a fraudulent claimant as provided in this section is not confidential and shall be furnished to any person requesting the information notwithstanding any other provision of this law.

"(d) The Board shall release to any employer with whom a person has made application for employment within the fourteen (14) days prior to the request the date of injury and nature of injury to that person if that person has had three or more general injury claims filed in the preceding five years in which weekly compensation payments have been made. The request for information shall give the name, address, and social security number of the person about whom information is sought. The board shall release this information only if the employer has written authorization from the person about whom information is sought. The Board shall release the information by telephone, but the employer must file the written authorization with the Board within ten (10) days after the information is released. If the employer requests information about three (3) or more persons at the same time, the Board may refuse to release the information except on written request from the employer and receipt of the written authorization from each person about whom the information is sought. An employer who receives the information but fails to file the authorization within the required period is guilty of a misdemeanor and on conviction shall be fined not more than One Thousand Dollars (\$1,000). Failure to file each authorization is a separate offense.

"(e)(1) The Attorney General shall promptly investigate any allegation of fraud on the part of an employer, employee, attorney, person or facility furnishing medical services authorized by Section 7 of Art. 8306, or insurance company or its representative relating to any claim. In order to carry out the requirements of this section, the Attorney General is vested with complete power to investigate and prosecute any and all allegations of fraudulent claim practices which may be submitted to the Board or which may be uncovered through the Attorney General's own efforts. The Attorney General shall cooperate with professional grievance committees, law enforcement officials, the Industrial Accident Board and other state agencies in the investigation and prosecution of fraudulent practices. It shall be the responsibility of the Attorney General to prosecute those cases in which it finds the reasonable probability that acts of fraud exist before all hearings of the Board or on appeal from the determination of such hearings.

"(2) In those cases in which a claimant makes a fifth claim for compensation within any five-year period, the Board shall automatically notify the Attorney General who shall investigate to determine if the probability of fraud exists in connection with the current claim or any of the prior claims.

"(3) If the Attorney General finds that a reasonable probability of fraud exists, the Attorney General shall request a hearing and the Board shall set the matter for hearing. On the setting of this matter, the Board shall promptly notify the person under investigation in writing of the allegation against him and of his

rights to attend and offer evidence at the hearing. This notice must be mailed by certified mail to the last known address of the person, must state the time and place for the hearing, which shall be within forty-five (45) days after determination by the Attorney General that the probability of fraudulent acts exists and must notify the person of his right to counsel and his right of access to the complete Board files relating to the claim or claims under investigation. This notice shall be forwarded to the person, return receipt requested, acknowledging receipt at least thirty (30) days before the hearing. Any investigation initiated under this section shall be concluded within sixty (60) days unless by a unanimous vote of the Board the time is extended, which in no event may be more than an additional sixty (60) days.

"(f) In addition to the powers granted under Section 4 of this article, as amended, the Board or any member thereof has the power to compel the attendance of witnesses, take evidence, and require the production of any records in conjunction with this hearing. The person under investigation has the same power to compel the attendance of witnesses and the production of records and documents.

"(g) After this hearing, the Board shall reduce its findings to writing and provide the person under investigation with a copy. If the Board determines that the claimant has been fraudulent in any or all of his claims for compensation, the Board shall then classify that claimant as a fraudulent claimant, which designation is final unless appealed by the claimant as provided in this section. If the Board determines that any other person except an employer under investigation has been fraudulent in connection with a claim for compensation, the Board may exercise its authority under Section 4 of this article, as amended, or report its findings to the appropriate professional grievance committee, law enforcement officials, or other state agencies for prosecution, or both. An employer who has been adjudicated to be fraudulent shall be subject to the provisions of Chapter 115, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8307c, Vernon's Texas Civil Statutes), as if he had discriminated against an employee for filing a claim. Actions taken by the Board in accordance with this procedure may be appealed by the aggrieved person by trial de novo to a district court of competent jurisdiction in the county of his residence, whose final judgment shall be determinative of his classification as a fraudulent claimant. Appeal shall be in accordance with Section 5 of this article, as amended.

"(h) Pending an investigation and hearing or appeal of allegations of fraud under this section, the Board may not approve a compromise settlement agreement or make a final award in connection with the worker's claims then pending before the Board.

"(i) If any worker is finally adjudicated to be a fraudulent claimant, that fact shall automatically be furnished to any employer, any insurance carrier, or any attorney for the claimant as regards all claims then pending before the Board and as regards all future claims which that claimant may thereafter file with the Industrial Accident Board; otherwise, the Board shall process the claim as generally provided under the workers' compensation law.

"(j) Nothing in the preceding sections shall diminish the power of the Industrial Accident Board on its own initiative to investigate or punish fraudulent acts.

"(k) This section does not give authority to withhold information from committees of the legislature to use for legislative purposes.

"(l) Any information pertaining to a worker's compensation file which is confidential by virtue of any of the terms of this Act shall retain such confidentiality when released to any investigative, legislative, or law enforcement agency including the Attorney General, District Attorneys, Grand Juries, or Legislative Committees. Any individual who shall publish, disclose, or distribute any such confidential information which is possessed by any investigative, legislative, or law enforcement agency to any other individual, corporation, or association not entitled to have

received such information directly from the Industrial Accident Board under the provisions of this law commits an offense, and any person, corporation, or association who receives any such confidential information when such person was not entitled to have received the same from the Industrial Accident Board under the provisions of this law commits an offense. An offense under this subsection is a Class A misdemeanor. Any District Court of Travis County shall have jurisdiction to enjoin possession and the use by any individual, corporation, or association of any information made confidential by this Act when such possession or use is not authorized by this Act. This subsection does not prohibit an employer from releasing information about a former employee to another employer with whom the employee has made application for employment, provided such information was lawfully acquired by the employer releasing the same.

“(m) Nothing herein prohibits any person from receiving from the Industrial Accident Board all information contained in any record or file of the Industrial Accident Board begun after September 1, 1971, in statistical form and in a manner so as not to disclose the name or identity of any person, except as provided in this section.

Sec. 4. Subsection (c), Section 29, Article 8306, Revised Civil Statutes of Texas, 1925, as added, is amended to read as follows:

“(c) If the annual average of the manufacturing production workers average weekly wage in Texas exceeds by Ten Dollars (\$10) the average weekly wage for those workers in 1974 as determined by the Texas Employment Commission and published in its report, ‘The Average Weekly Wage,’ the maximum weekly benefit shall be increased by Seven Dollars (\$7) and the minimum weekly benefit shall be increased by One Dollar (\$1) above the amounts specified in Subsection (b) of this section beginning with the commencement of the state fiscal year following the publication of the report. Thereafter, each cumulative [additional] Ten Dollar (\$10) increase in the average weekly wage for manufacturing production workers in Texas as annually determined and reported by the Texas Employment Commission shall increase cumulatively the maximum weekly benefit by an additional Seven Dollars (\$7) and the minimum weekly benefit by an additional One Dollar (\$1) beginning with the commencement of the state fiscal year following the publication of the report.”

Sec. 5. For the purpose of carrying out the investigations required by this Act, there is appropriated to the Attorney General’s Office from the General Revenue fund the amount of \$80,560 for the year ending August 31, 1978, and \$87,060 for the year ending August 31, 1979.

Sec. 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Floor Amendment No. 2

Amend the Grant Amendment to S.B. 1275, page 5, by inserting a new subsection (i) as follows:

“(i) If any worker shall be finally adjudicated to be a fraudulent claimant, the Board may terminate any compensation which the fraudulent claimant is currently drawing and require repayment to the Association of any amounts so drawn.”

and re-letter subsequent subsections accordingly

Floor Amendment No. 3

Amend Grant Amendment to S.B. No. 1275, Section 3., at Page 4, line 21, by adding the following language after the word investigation: “, as well as the other parties involved in the case,”

Floor Amendment No. 4

Amend Grant amendment to S.B. 1275, Section 3., Page 5, line 9 by adding the following language after the word investigation: “, as well as the other parties involved in the case,”

Floor Amendment No. 5

Amend the Grant amendment to S. B. No. 1275 to add a new Section ___ to provide the following:

“Sec. __. Article 8307, Revised Civil Statutes of Texas, 1925, as amended, is amended by adding Section 4(b) to read as follows:

“Sec. 4(b). Sections 1 through 12 of the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon’s Texas Civil Statutes) apply to the Industrial Accident Board. However, Sections 4(a)(3), and 13 through 20 of the Administrative Procedure and Texas Register Act do not apply and section 4(b) of that Act shall not apply to orders and decisions of the Industrial Accident Board.”

The amendments were read.

Senator Meier raised the Point of Order that the House amendments were not germane to the bill.

Senator Doggett moved for an immediate ruling on the Point of Order and the motion was duly seconded by the following Senators: Adams, Aikin, Parker, Clower, Mauzy, Hance, Patman, Braecklein, Brooks and Jones of Harris.

The motion prevailed by the following vote: Yeas 18, Nays 10.

Yeas: Adams, Aikin, Braecklein, Brooks, Clower, Doggett, Farabee, Hance, Jones of Harris, Kothmann, Longoria, Mauzy, McKnight, Parker, Patman, Schwartz, Truan Williams.

Nays: Andujar, Creighton, Harris, Jones of Taylor, Lombardino, Meier, Moore, Ogg, Sherman, Snelson.

Absent: Traeger.

Absent-excused: Mengden, Santiesteban.

REASON FOR VOTE

THE SENATE OF
THE STATE OF TEXAS
AUSTIN 78711

May 28, 1977

Mrs. Betty King
Secretary of the Senate

Dear Betty:

I request that you insert in the Senate Journal as the reason for my vote on roll call No. 67 on May 28, 1977, in its entirety the point of order attached to this letter and all Exhibits attached thereto. I voted "No" on the motion for an immediate ruling on the point of order because I felt the Senate should have had the benefit of a full discussion of constitutional defects under Article III, Section 30, and Article III, Section 35 of the Texas Constitution, and under Rule No. 72 of the Senate Rules pertaining to germaneness.

Sincerely,
BILL MEIER

POINT OF ORDER

Mr. President:

I raise a point of order against further consideration of the Substitute for Senate Bill 1275 for the reason that the original bill has been so amended and changed by the Substitute that it violates Rule 72, Senate Rules, so as to be not Germane and violates Article III, Section 30, Texas Constitution, in that the bill has been so amended in its passage as to change its original purpose.

The original Senate Bill 1275 is attached hereto as Exhibit "A" and has as its "original purpose" various amendments and additions to the workman's compensation law dealing with the subjects of worker's compensation regulation and benefits and rendering the information in worker's compensation files as confidential. Specifically, Senate Bill 1275 as originally introduced proposed the following:

Section 1. Amends Section 12c, Art. 8306 to provide that an insurer is liable only for the degree of incapacity attributed to the subsequent general injury and not for the incapacity attributable to a prior general injury.

Section 2. Amends Section 12c-1, Art. 8306 to provide that an insurer shall be liable only for the compensation payable for a subsequent injury out of a special fund known as the "Second Injury Fund", and not for that attributable to and payable on a prior specific injury.

Section 3. Adds a new Section 12c-1a to Article 8306 to provide information in workers' compensation files is confidential except to: (1) the claimant; (2) the attorney for the claimant; (3) the carrier; (4) the employer at the time of the current injury; or (5) third party litigants.

Section 4. Amends Section 29, Article 8306 to provide that annual adjustments to the maximum benefits shall be based on the cumulative \$10 increase in the annual average weekly wage.

Section 5. Deals with the liability for replacement of any artificial appliances furnished an injured employee.

Section 6. Increases funeral benefits paid deceased employee's beneficiaries or others from \$500.00 to \$1,250.00.

Section 7. Emergency.

GROUNDS FOR POINT OF ORDER

POINT I

A. After passage from the Senate Jurisprudence Committee without amendments, the Committee Report for Senate Bill 1275 which is attached hereto as Exhibit B, was extensively amended entirely within Section 3 of the bill on the Senate floor. The Senate passed version of Senate Bill 1275 is attached hereto as Exhibit C. Specifically, Section 3 proposed to add a new Section 12c-1a to Article 8306, Revised Civil Statutes of Texas, 1925, which would deal with "Confidentiality of Claim Files.":

Section 3. Adds a new Section 12c-1a to Article 8306 which deals with "Confidentiality of Claim Files." Provides that claim files are confidential and may not be disclosed except under the following circumstances:

1. The board will furnish requested information or a record check only to: (1) claimant, (2) the attorney for the claimant, (3) the carrier; (4) the employer at the time of the current injury or (5) third party litigants.

2. All information concerning any person who has been finally adjudicated to be a fraudulent claim shall not be confidential.

3. Provides for an automatic investigation by the board in cases in which any claimant makes a fifth claim for compensation within any five-year period.

4. Provides that any board member or claimant shall have the power to compel the attendance of witnesses, take evidence and require the production of any records in conjunction with such hearing.

5. Provides for the reduction into writing all findings by the board and for the classification of the claimant as a fraudulent claimant upon the finding by the board that the claimant had been fraudulent in any claims. Also provides for the appeal by claimant to court of competent jurisdiction.

6. Restricts the board from granting any final award pending any investigation and hearing or appeal of allegations of fraud by the claimant.

7. Provides that upon final adjudication of a fraudulent claim, such fact shall be furnished to any employer, carrier or attorney for the claimant.

8. Provides for the establishment of an investigation division of the board and for the employment of attorneys, investigation and clerical help.

9. Provides for the release of statistical information by the board which does not disclose the name or identity of any person.

B. Subsection 2 of the proposed new Section 12c-1a makes the first reference to records concerning "fraudulent" claims as not being confidential.

C. Subsections 3 through seven of the proposed new Section 12c-1a established an entirely new and different hearing and recording procedure at the Industrial Accident Board as well as a new classification of claims.

D. The new Subsection 8 establishes an entirely new investigative division within the Industrial Accident Board as well as the employment of attorneys and additional clerical personnel.

E. Subsection 9 provides the first reference to the release of statistical information.

It is plainly obvious, Mr. President, that the provisions and "Original purpose" of Senate Bill 1275 were drastically broadened within this proposed addition of Section 12c-1a. Therefore, I sincerely submit that these changes were made to Section 3 of the bill are not germane to the "original purpose" of the bill and cite as precedents the following from the Rules of the Manual of Parliamentary Practice:

Subsection 798e. One individual proposition not germane to another. "One individual proposition may not be amended by another individual proposition even though the two belong to the same class (VIII, 2951-2953, 2963-2966, 3047)..... 'And an amendment changing existing law to achieve one individual purpose is not germane to a proposition which seeks to accomplish another individual purpose (Dec. 14, 1973, p. ____).'"

It is entirely inconceivable that one of the exceptions by which worker's claim files would not be confidential would provide for investigative powers by the Industrial Accident Board. In fact only two of the proposed nine exceptions provided for under the new Section 12c-1a deal with the releasing of information on individual claimants concerning confidentiality; the other seven exceptions relate to other items as regards procedure and fraudulent claims.

Subsection 798b. Fundamental purpose as test of germaneness. "The fundamental purpose of an amendment must be germane to the fundamental purpose of the bill (VIII, 2911)."

Further, it is evident from a review of the contents that it is totally contrary to the "original purpose" of Senate Bill 1275 to establish new and different investigative powers in the Industrial Accident Board, when the original bill made no mention of investigative powers at all.

POINT II

A. After passage in the Senate, the bill was reported from the House Committee on State Affairs in the form of a Committee Substitute, attached hereto as Exhibit D, which again significantly broadens the scope of Senate Bill 1275. After a point of order was raised, the bill was sent back to the Calendar Committee which reported out the bill in its original Senate-passed form. (Exhibit E). The bill was amended on the House floor (Exhibit F) and provides for the following:

Sec. 1. Same as originally introduced in the Senate.

Sec. 2. Same as originally introduced in the Senate.

Sec. 3. Amends Article 8307, Revised Civil Statutes of Texas, 1925, by adding a new Section 9a to state that information in worker's claim file is confidential except to: (1) the claimant; (2) the attorney for the claimant; (3) the carrier; (4) the employer at the time of the current injury; (5) third party litigants; or (6) the State Board of Insurance.

(c) The claim file shall be open only if the claimant has been found to be fraudulent claim.

(d) The claim file shall be open to employers with whom the worker has applied for employment if the worker has previously filed three or more general injury claims within five years. Written authorization must be obtained from the person about whom the information is sought.

(e) Requires the Attorney General to investigate allegations of fraud and any claimant who has filed a fifth claim within a 5-year period. Requires the Attorney General to prosecute cases in which fraud is found to exist. Provides provisions for hearings held by the Attorney General.

(f) Provides that any board member or claimant shall have the power to compel the attendance of witnesses, take evidence, and require the production of any records.

(g) The Industrial Accident Board is given specific authority to take action against persons found to have engaged in fraudulent practices. An employer who has been adjudicated to be fraudulent shall be subject to the provisions of Article 8307c of the Workman's Compensation Law as if he had discriminated against the employee.

(h) Pending an investigation and hearing or appeal, no compromise settlement shall be made by the board.

(i) Provides that the Board may terminate and require repayment of compensation by any claimant found to be fraudulent.

(j) Upon final adjudication of a fraudulent claim such fact shall be furnished to any employer, carrier or attorney for the claimant.

(k) Protects power of the Industrial Accident Board to investigate or punish fraudulent acts.

(l) Provides for the release of information to committees of the legislature for legislative purposes.

(m) Information released to the legislature, law enforcement agency or the Attorney General shall remain confidential and any individual who was not entitled to this information and releases or receives this information shall have committed a Class A misdemeanor offense.

(n) provides for the release of statistical information by the board which does not describe the name or identity of any person.

Sec. 4. Same as originally introduced in the Senate.

Sec. 5. Makes an appropriation to the Office of the Attorney General to carry out investigations required by this Act.

Sec. 6. Provides that the Industrial Accident Board would be subject to the certain provisions of the Administrative Procedure and Texas Register Act.

B. No longer would Senate Bill 1275 provide for a new Section 12c-1a to Article 8306 dealing with "Confidentiality of Claim Files" but rather would amend a different section of specific law by adding an entirely new Subsection 9a to Article 8307, Revised Civil Statutes of Texas, 1925, a totally different statute. This new Subsection would deal with the confidentiality of workmen's compensation files and establish new procedure for obtaining information from the Industrial Accident Board by employers in the new statute not a part in any respect to the original bill.

Mr. President, I sincerely submit that the procedure by which Senate Bill 1275 originally proposed to amend one specific law (Article 8306, Revised Civil Statutes of Texas, 1925), but later was changed to amend a totally different specific law (Article 8307 Revised Civil Statutes of Texas) was not germane and cite as a precedent the following from the Rules of The House of Representatives of the United States Ninety-Fourth Congress:

Subsection 793e. One Individual Proposition Not Germane To Another. "One individual proposition may not be amended by another individual proposition even though the two belong to the same class (VIII, 2951-2953, 2963-2966, 3047)..... 'Thus, the following are held not germane:.....; to a bill amending a law in one particular, amending the law in another particular (VIII, 2949).'"

C. Senate Bill 1275 was further amended by the House to provide for the requiring of the Attorney General to investigate all allegations of fraud as regards worker's compensation claims and established a totally new hearing procedure.

D. The new subsection 9a would additionally provide for the release of otherwise confidential information concerning individual claimants to the members of the legislature.

E. The new Subsection 9a provides for a criminal penalty for the "release" of confidential information for either the person releasing or receiving this information.

G. The new Section 5 of the bill establishes a yearly appropriation in excess of \$80,000. to be utilized by the Industrial Accident Board in carrying out investigations.

Mr. President, I submit that no construction is logically possible to argue that the "original purpose" of Senate Bill 1275 was to provide for Attorney General investigations, criminal sanctions, or multi-thousand dollar appropriations; all subjects totally foreign and not mentioned in any respect in the original bill. Mr. President, the amendments to Senate Bill 1275 as proposed by the House can in no reasonable interpretation of the parliamentary rules concerning germaneness be ruled as germane and I further cite as precedents the following:

1. From the Rules Of The House of Representatives of the United States Ninety-Fourth Congress:

Subsection 798a. Subject Matter As A Test Of Germaneness.

"An amendment must relate to the subject matter under consideration:..."

Subsection 798b. Fundamental Purpose As A Test Of Germaneness.

"The fundamental purpose of an amendment must be germane to the fundamental purpose of the bill (VIII, 2911)."

2. From Volume VIII, Section 2967, Cannon's Precedents of the House of Representatives of the United States:

Section 2967. To a bill proposing to raise the price of agricultural products to a basis of comparative equality with the price of other commodities through the establishment of a Federal Farm Board authorized to promote effective marketing an amendment proposing to raise agricultural prices through the authorization of export debentures on agricultural products was held not to be germane.

"The rule has been often stated to be that if an amendment proposes such modification of a bill that it could not reasonably have been anticipated or cannot be said to be a logical sequence of the matter contained in the bill, or is not such a modification as would naturally suggest itself to the legislative body considering the bill, then it is not germane.." (Carl E. Mapes, of Michigan, Chairman, April 25, 1929).

I. In addition to broadening the scope of Senate Bill 1275, the Committee Substitute did not contain a section dealing with the liability for replacement of artificial appliances nor a section increasing funeral benefits paid deceased employee's beneficiaries as did Sections 4 and 5 of the original Senate Bill 1275 as introduced. Mr. President, I, therefore, sincerely submit that these two deletions are not germane, but rather significantly alter the "original purpose" of Senate Bill 1275 and cite as a precedent the following from the Rules Of The House of Representatives of the United States Ninety-Fourth Congress:

Subsection 794. Germane Amendments.

"In general, an amendment simply striking out words already in a bill may not be ruled out as not germane. (V, 5805; VIII, 2918) unless such action would change the scope and meaning of the text (IV, 3596; VIII, 2919; Mar. 28, 1960, p. 6381);..."

POINT III

Mr. President, I further submit that the changes in Senate Bill 1275 are contrary in every respect to the earlier ruling of the Chair in this 65th Legislative Session reflected in the Senate Journal at page 300 which involved on February 16, 1977, an attempt by me to amend a pending bill by the Senator from Brazos, Senator Moore, concerning Senate Bill 34 relating to incurring an insurance penalty for certain speeding violations. Senate Bill 34 amended Section 169B of Article 6701d, Vernon's Annotated Texas Statutes, by adding two new subsections, while the amendment offered merely repealed the entire Section 169B. The ruling of the Chair as shown by the attached Exhibit (G) which is a rough transcription of the tape recordings of the Senate Session was as follows:

"Gov. Hobby: Senator, it's well established parliamentary practice, as both you and the Senator from Jasper have agreed and argued to the Senate that the caption does not control, that in fact, in ruling on this germane, this point.... that the chair should examine the body and the main thrust of the bill. The main thrust of the bill is to amendment Section 169B by adding 2 subsections, taking very specific action. Your amendment repeals, Senator, repeals the whole section, the chair is going to respectfully sustain the point of order on the grounds that your amendment, not on caption grounds but on grounds does violence to the basic thrust of the bill itself. Point of order sustained. Questions on engrossment of Senate Bill 34 as amended, all in favor signify by saying aye. ..."

So, Mr. President, I would cite this ruling of the Chair in this the 65th Session of the Texas Legislature as conclusive authority that the many and varied changes in Senate Bill 1275 as it has progressed through both houses of the Legislature does violence to Article III, Section 30 of the Texas Constitution which provides:

"No law shall be passed, except by bill and no bill shall be so amended in its passage through either House, as to change its original purpose."

Finally, for all the reasons cited herein the many and varied changes in Senate Bill 1275 violate Rule 72 of the Senate Rules which provides:

GERMANENESS

72. No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment or as a substitute for the motion or proposition under debate. (Constitution, Article 3, Sections 30 and 35).

EXHIBIT A

S.B. No. 1275

By: Farabee, Mauzy

A BILL TO BE ENTITLED

AN ACT

relating to worker's compensation regulations and benefits; amending Section 12c of Article 8306, Revised Civil Statutes of Texas, 1925, as amended; amending Section 12c-1 of Article 8306, Revised Civil Statutes of Texas, 1925, as amended; amending Article 8306, Revised Civil Statutes of Texas, 1925 as amended, by adding thereto a

new Section designated as Section 12c-1a; amending Subsection (c), Section 29, Article 8306, Revised Civil Statutes of Texas, 1925, as amended; amending Subsection (a), Section 7-e, Article 8306, Revised Civil Statutes of Texas, 1925, as amended; amending Section 9 of Article 8306, Revised Civil Statutes of Texas, 1925, as amended; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Section 12c of Article 8306, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"Section 12c. If an employee who has suffered a previous injury shall suffer a subsequent injury which results in a condition of incapacity to which both injuries or their effects have contributed, the association (Texas Employer's Insurance Association) shall be liable because of such injury only for the compensation to which the subsequent injury would have entitled the injured employee had there been no previous injury; provided that there shall be created a fund known as the 'Second-Injury Fund' hereinafter described, from which an employee who has suffered a subsequent injury shall be compensated for the combined incapacities resulting from both injuries. Provided further, however, that notice of injury to the employer and filing of a claim with the Industrial Accident Board, as required by law, shall also be deemed and considered notice to and filing of a claim against the 'Second-Injury Fund.' ~~[for all compensation provided by this Act, but said association shall be reimbursed from the 'Second-Injury Fund' as hereinafter described, to the extent that the previous injury contributes to the combined incapacity.]~~

Sec. 2. Section 12c-1 of Article 8306, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"Section 12c-1. If an employee who has previously lost, or lost the use of, one hand, one arm, one foot, one leg, or one eye, becomes permanently and totally incapacitated through the loss or loss of use of another member or organ, the association shall be liable only for the ~~[all]~~ compensation payable for such second injury provided, however, that in addition to such compensation and after the combination of the payments therefore, the employee shall be paid the remainder of the compensation that would be due for the total permanent incapacity out of the special fund known as 'Second-Injury Fund,' hereinafter defined. ~~[by this Act, not to exceed 401 weeks, but said association shall be reimbursed from the 'Second-Injury Fund,' as hereinafter described, to the extent that its payment exceeds the amount due for the second injury as above set out. In order to qualify for reimbursement from the 'Second-Injury Fund' under this section, the association must file its claim with the Industrial Accident Board within 180 days following date of injury, together with evidence of its payment of all compensation provided by this Act and of the pre-existing permanent physical impairment qualifying the association for such reimbursement. Good cause for late filing as set forth in Section 4(a), Article 8307, Revised Civil Statutes of Texas, 1925, as amended, shall also apply in such claims for reimbursement. Provided further, if the association makes payment in a lump sum to the injured claimant, the association shall be entitled to reimbursement from the 'Second-Injury Fund' by lump sum payment.]~~"

Sec. 3. Article 8306, Revised Civil Statutes of Texas, 1925, as amended, is amended by adding thereto Section 12c-1a to read as follows:

"Section 12c-1a. **CONFIDENTIALITY OF CLAIM FILES.** Information in a worker's compensation claim file is confidential and may not be disclosed except to the following persons if there is a worker's compensation claim for the named claimant open or pending before the Industrial Accident Board or on appeal to a court of competent jurisdiction from the board at the time the record search request or request for information is presented to the board. The first, middle, and last name of the claimant, age, and social security number, and if possible, dates of injury and the name of prior employers must be given in the request for information

by the requesting party. The board will furnish the requested information or a record check only to the following:

- "(1) the claimant;
- "(2) the attorney for the claimant;
- "(3) the carrier;
- "(4) the employer at the time of the current injury;
- "(5) third party litigants."

Sec. 4. Subsection (c), Section 29, Article 8306, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"(c) If the annual average of the manufacturing production workers average weekly wage in Texas exceeds by Ten Dollars (\$10) the average weekly wage for those workers in 1974 as determined by the Texas Employment Commission and published in its report, 'The Average Weekly Wage,' the maximum weekly benefit shall be increased by Seven Dollars (\$7) and the minimum weekly benefit shall be increased by One Dollar (\$1) above the amounts specified in Subsection (b) of this section beginning with the commencement of the state fiscal year following the publication of the report. Thereafter, each cumulative ~~additional~~ Ten Dollars (\$10) increase in the average weekly wage for manufacturing production workers in Texas as annually determined and reported by the Texas Employment Commission shall increase cumulatively the maximum weekly benefit by an additional Seven Dollars (\$7) and the minimum weekly benefit by an additional One Dollar (\$1) beginning with the commencement of the state fiscal year following the publication of the report."

Sec. 5. Subsection (a), Section 7-e, Article 8306, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"(a) In all cases where liability for compensation exists for an injury sustained by an employee in the course of his employment where artificial appliances of any kind would materially and beneficially improve the future usefulness and occupational opportunities of such injured employee, the association shall furnish such employee with the artificial appliance or appliances needed by him for such occupational opportunities and shall continue to furnish the needed artificial appliance or appliances until a satisfactory fit is obtained in the judgment of the attending physician or physicians. The association shall also ~~not~~ be liable for replacing or repairing any artificial appliances so furnished unless the need for the repair or replacement is due to lack of proper care by the employee. The cost of such artificial appliances so furnished to any such employee shall be in keeping with the salary or wages received by such employee."

Sec. 6. Section 9 of Article 8306, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"Section 9. If the deceased employee leaves no legal beneficiaries, the association shall pay all expenses incident to his last sickness as a result of the injury and in addition a funeral benefit not to exceed \$1,250 ~~(Five Hundred Dollars (\$500))~~.

"If the deceased employee leaves a legal beneficiary or beneficiaries, and is buried at the expense of ~~the beneficiary or beneficiaries, or is buried at the expense of~~ his employer or any other person, the expense of such burial, not to exceed \$1,250 ~~(Five Hundred Dollars (\$500))~~, shall be payable without discount for present payment to the person or persons at whose expense the burial occurred, subject to the approval of the Board; and such burial expense, regardless of to whom it is paid, shall be in addition to the compensation due the beneficiary or beneficiaries of such deceased employee."

Sec. 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each

house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

EXHIBIT B

By: Farabee, Mauzy

S.B. No. 1275

(In the Senate - Filed April 21, 1977; April 21, 1977, read first time and referred to Committee on Jurisprudence; April 27, 1977, reported favorably; April 27, 1977, sent to printer.)

A BILL TO BE ENTITLED

AN ACT

relating to workers' compensation regulations and benefits; amending Section 12c, Article 8306, Revised Civil Statutes of Texas, 1925, as amended; amending Section 12c-1, Article 8306, Revised Civil Statutes of Texas, 1925, as amended; amending Article 8306, Revised Civil Statutes of Texas, 1925, as amended, by adding thereto a new section designated as Section 12c-1a; amending Subsection (c), Section 29, Article 8306, Revised Civil Statutes of Texas, 1925, as amended; amending Subsection (a), Section 7-e, Article 8306, Revised Civil Statutes of Texas, 1925, as amended; amending Section 9, Article 8306, Revised Civil Statutes of Texas, 1925, as amended; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Section 12c, Article 8306, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"Section 12c. If an employee who has suffered a previous injury shall suffer a subsequent injury which results in a condition of incapacity to which both injuries or their effects have contributed, the association (Texas Employer's Insurance Association) shall be liable because of such injury only for the compensation to which the subsequent injury would have entitled the injured employee had there been no previous injury; provided that there shall be created a fund known as the 'Second-Injury Fund,' hereinafter described, from which an employee who has suffered a subsequent injury shall be compensated for the combined incapacities resulting from both injuries. Provided further, however, that notice of injury to the employer and filing of a claim with the Industrial Accident Board, as required by law, shall also be deemed and considered notice to and filing of a claim against the 'Second-Injury Fund.' ~~[for all compensation provided by this Act, but said association shall be reimbursed from the 'Second Injury Fund' as hereinafter described, to the extent that the previous injury contributes to the combined incapacity.]~~"

Sec. 2. Section 12c-1, Article 8306, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"Section 12c-1. If an employee who has previously lost, or lost the use of, one hand, one arm, one foot, one leg, or one eye, becomes permanently and totally incapacitated through the loss or loss of use of another member or organ, the association shall be liable only for the [all] compensation payable for such second injury provided, however, that in addition to such compensation and after the combination of the payments therefore, the employee shall be paid the remainder of the compensation that would be due for the total permanent incapacity out of the special fund known as 'Second-Injury Fund,' hereinafter defined [by this Act, not to exceed 401 weeks, but said association shall be reimbursed from the 'Second Injury Fund,' as hereinafter described, to the extent that its payment exceeds the amount due for the second injury as above set out. In order to qualify for reimbursement from the 'Second Injury Fund' under this section, the association must file its claim

~~with the Industrial Accident Board within 100 days following date of injury, together with evidence of its payment of all compensation provided by this Act and of the preexisting permanent physical impairment qualifying the association for such reimbursement. Good cause for late filing as set forth in Section 4(a), Article 8307, Revised Civil Statutes of Texas, 1925, as amended, shall also apply in such claims for reimbursement. Provided further, if the association makes payment in a lump sum to the injured claimant, the association shall be entitled to reimbursement from the 'Second Injury Fund' by lump sum payment]."~~

Sec. 3. Article 8306, Revised Civil Statutes of Texas, 1925, as amended, is amended by adding a new Section 12c-1a to read as follows:

"Section 12c-1a. CONFIDENTIALITY OF CLAIM FILES. Information in a workers' compensation claim file is confidential and may not be disclosed except to the following persons if there is a workers' compensation claim for the named claimant open or pending before the Industrial Accident Board or on appeal to a court of competent jurisdiction from the board at the time the record search request or request for information is presented to the board. The first, middle, and last name of the claimant, age, and social security number, and if possible, dates of injury and the name of prior employers must be given in the request for information by the requesting party. The board will furnish the requested information or a record check only to the following:

- "(1) the claimant;
- "(2) the attorney for the claimant;
- "(3) the carrier;
- "(4) the employer at the time of the current injury;
- "(5) third party litigants."

Sec. 4. Subsection (c), Section 29, Article 8306, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"(c) If the annual average of the manufacturing production workers average weekly wage in Texas exceeds by Ten Dollars (\$10) the average weekly wage for those workers in 1974 as determined by the Texas Employment Commission and published in its report, 'The Average Weekly Wage,' the maximum weekly benefit shall be increased by Seven Dollars (\$7) and the minimum weekly benefit shall be increased by One Dollar (\$1) above the amounts specified in Subsection (b) of this section beginning with the commencement of the state fiscal year following the publication of the report. Thereafter, each cumulative [additional] Ten Dollar (\$10) increase in the average weekly wage for manufacturing production workers in Texas as annually determined and reported by the Texas Employment Commission shall increase cumulatively the maximum weekly benefit by an additional Seven Dollars (\$7) and the minimum weekly benefit by an additional One Dollar (\$1) beginning with the commencement of the state fiscal year following the publication of the report."

Sec. 5. Subsection (a), Section 7-e, Article 8306, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"(a) In all cases where liability for compensation exists for an injury sustained by an employee in the course of his employment where artificial appliances of any kind would materially and beneficially improve the future usefulness and occupational opportunities of such injured employee, the association shall furnish such employee with the artificial appliance or appliances needed by him for such occupational opportunities and shall continue to furnish the needed artificial appliance or appliances until a satisfactory fit is obtained in the judgment of the attending physician or physicians. The association shall also ~~not~~ be liable for replacing or repairing any artificial appliances so furnished unless the need for the repair or replacement is due to lack of proper care by the employee. The cost of such artificial appliances so furnished to any such employee shall be in keeping with the salary or wages received by such employee."

Sec. 6. Section 9, Article 8306, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"Section 9. If the deceased employee leaves no legal beneficiaries, the association shall pay all expenses incident to his last sickness as a result of the injury, and in addition a funeral benefit not to exceed \$1,250 [~~Five Hundred Dollars (\$500)~~].

"If the deceased employee leaves a legal beneficiary or beneficiaries, and is buried at the expense of [~~the beneficiary or beneficiaries, or is buried at the expense of~~] his employer or any other person, the expense of such burial, not to exceed \$1,250 [~~Five Hundred Dollars (\$500)~~], shall be payable without discount for present payment to the person or persons at whose expense the burial occurred, subject to the approval of the Board; and such burial expense, regardless of to whom it is paid, shall be in addition to the compensation due the beneficiary or beneficiaries of such deceased employee."

Sec. 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Austin, Texas
April 27, 1977

Hon. William P. Hobby
President of the Senate

Sir:

We, your Committee on Jurisprudence, to which was referred S.B. No. 1275, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

Schwartz, Chairman

EXHIBIT C

By: Farabee, Mauzy

S.B. No. 1275

A BILL TO BE ENTITLED

AN ACT

relating to workers' compensation regulations and benefits and to confidentiality of certain records; amending Section 12c, Article 8306, Revised Civil Statutes of Texas, 1925, as amended; amending Section 12c-1, Article 8306, Revised Civil Statutes of Texas, 1925, as amended; amending Article 8306, Revised Civil Statutes of Texas, 1925, as amended, by adding thereto a new section designated as Section 12c-1a; amending Subsection (c), Section 29, Article 8306, Revised Civil Statutes of Texas, 1925, as amended; amending Subsection (a), Section 7-e, Article 8306, Revised Civil Statutes of Texas, 1925, as amended; amending Section 9, Article 8306, Revised Civil Statutes of Texas, 1925, as amended; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Section 12c, Article 8306, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"Section 12c. If an employee who has suffered a previous injury shall suffer a subsequent injury which results in a condition of incapacity to which both injuries or their effects have contributed, the association (Texas Employer's Insurance Association) shall be liable because of such injury only for the compensation to which the subsequent injury would have entitled the injured employee had there been no previous injury; provided that there shall be created a fund known as the 'Second-Injury Fund,' hereinafter described, from which an employee who has suffered a subsequent injury shall be compensated for the combined incapacities resulting from both injuries. Provided further, however, that notice of injury to the employer and filing of a claim with the Industrial Accident Board, as required by law, shall also be deemed and considered notice to and filing of a claim against the 'Second-Injury Fund.' ~~[for all compensation provided by this Act, but said association shall be reimbursed from the 'Second Injury Fund' so hereinafter described, to the extent that the previous injury contributes to the combined incapacity.]~~"

Sec. 2. Section 12c-1, Article 8306, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"Section 12c-1. If an employee who has previously lost, or lost the use of, one hand, one arm, one foot, one leg, or one eye, becomes permanently and totally incapacitated through the loss or loss of use of another member or organ, the association shall be liable only for the ~~[all]~~ compensation payable for such second injury provided, however, that in addition to such compensation and after the combination of the payments therefore, the employee shall be paid the remainder of the compensation that would be due for the total permanent incapacity out of the special fund known as 'Second-Injury Fund,' hereinafter defined ~~[by this Act, not to exceed 401 weeks, but said association shall be reimbursed from the 'Second Injury Fund,' as hereinafter described, to the extent that its payment exceeds the amount due for the second injury as above set out. In order to qualify for reimbursement from the 'Second Injury Fund' under this section, the association must file its claim with the Industrial Accident Board within 100 days following date of injury, together with evidence of its payment of all compensation provided by this Act and of the preexisting permanent physical impairment qualifying the association for such reimbursement. Good cause for late filing as set forth in Section 4(a), Article 8307, Revised Civil Statutes of Texas, 1925, as amended, shall also apply in such claims for reimbursement. Provided further, if the association makes payment in a lump sum to the injured claimant, the association shall be entitled to reimbursement from the 'Second Injury Fund' by lump sum payment.]~~"

Sec. 3. Article 8306, Revised Civil Statutes of Texas, 1925, as amended, is amended by adding a new Section 12c-1a to read as follows:

"Section 12c-1a. **CONFIDENTIALITY OF CLAIM FILES.** Information in a workers' claim file is confidential and may not be disclosed except under the following circumstances:

"1. If there is a workers' compensation claim for the named claimant open or pending before the Industrial Accident board or on appeal to a court of competent jurisdiction from the board at the time of a record search or request or request for information is presented to the board, such information shall be furnished as provided in this section. The first, middle, and last name of the claimant, age and social security number, and, if possible, dates of injury and the name of prior employers must be given in the request for information by the requesting party. The board will furnish the requested information or a record check only to the following:

- "(1) the claimant;
- "(2) the attorney for the claimant;
- "(3) the carrier;

'(4) the employer at the time of the current injury;

'(5) third party litigants.

"2. All information of the Industrial Accident Board concerning any person who has been finally adjudicated to be a fraudulent claimant (as provided hereinafter) shall not be confidential and shall be furnished to any person requesting such information notwithstanding any other provision of this Act.

"3. The board shall promptly investigate any allegation of fraud relating to any claim. In those cases in which any claimant shall make a fifth claim for compensation within any five-year period, the board shall automatically review the current claim as well as all of the claimant's prior claims to determine whether or not there is a reasonable probability to believe that fraud exists. Should the board determine that the probability of fraud exists in connection with the current claim or any of the prior claims, the board shall set the matter for a hearing before the board pursuant to its powers under this section and Article 8307(4). Upon the setting of any such matter, the board shall promptly notify the claimant in writing of the allegation against him and of his rights to attend and offer evidence at such hearing. Said notice shall be mailed by certified mail to the last known address of the claimant, shall state the time and place for such hearing, which shall be within 45 days after determination by the board that the probability of fraud exists, shall notify the claimant of his right to counsel and his right of access to his complete board files. Such notice shall be forwarded to the claimant, return receipt requested, acknowledging receipt at least 30 days before such hearing. Any investigation initiated under this section shall be concluded within 60 days unless by a unanimous vote of the board the time is extended, which in no event shall be more than an additional 60 days.

"4. In addition to the powers granted under Article 8307(4), the board or any member thereof shall have the power to compel the attendance of witnesses, take evidence, and require the production of any records in conjunction with such hearing. The claimant shall likewise have the same power to compel the attendance of witnesses and the production of records and documents.

"5. After any such hearing, the board shall reduce its findings to writing and provide the claimant with a copy of such findings. If the board determines that the claimant has been fraudulent in any or all of his claims for compensation, the board shall then classify such claimant as a fraudulent claimant, which designation shall be final unless appealed by the claimant as hereinafter provided. Actions taken by the board pursuant to this procedure may be appealed by the aggrieved person by trial de novo to a district court of competent jurisdiction in the county of his residence whose final judgment shall be determinative of his classification as a fraudulent claimant. Appeal hereunder shall be in accordance with Section 5, Article 8307.

"6. Pending any investigation and hearing or appeal of allegations of fraud pursuant to this section, the board shall not approve any compromise settlement agreement or make any final award in connection with any of said worker's claims then pending before the board.

"7. If any worker shall be finally adjudicated to be a fraudulent claimant, such fact shall automatically be furnished to any employer, any insurance carrier, as well as any attorney for the claimant as regards all claims then pending before the board and as regards all future claims which that claimant may thereafter file with the Industrial Accident Board; otherwise, the board shall process such claim as generally provided under the workers' compensation law.

"8. (a) In order to carry out the above mandates, the Industrial Accident Board shall establish an investigative division of the board with complete power to investigate any and all allegations of fraudulent claim practices which may be submitted to the board or which may be uncovered through its own efforts. The board through its investigative division shall cooperate with professional grievance

committees, law enforcement officials, and other state agencies in the investigation and prosecution of fraudulent practices.

"(b) The board may employ attorneys, investigators, and clerical help necessary to the functioning of its investigators and clerical help necessary to the functioning of its investigative division.

"9. Nothing herein shall prohibit any person from receiving from the Industrial Accident Board all information contained in any record or file of the Industrial Accident board in statistical form and in such manner so as not to disclose the name or identity of any person, except as provided hereinabove."

Sec. 4. Subsection (c), Section 29, Article 8306, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"(c) If the annual average of the manufacturing production workers average weekly wage in Texas exceeds by Ten Dollars (\$10) the average weekly wage for those workers in 1974 as determined by the Texas Employment Commission and published in its report, 'The Average Weekly Wage,' the maximum weekly benefit shall be increased by Seven Dollars (\$7) and the minimum weekly benefit shall be increased by One Dollar (\$1) above the amounts specified in Subsection (b) of this section beginning with the commencement of the state fiscal year following the publication of the report. Thereafter, each ~~cumulative~~ ~~[additional]~~ Ten Dollar (\$10) increase in the average weekly wage for manufacturing production workers in Texas as annually determined and reported by the Texas Employment Commission shall increase cumulatively the maximum weekly benefit by an additional Seven Dollars (\$7) and the minimum weekly benefit by an additional One Dollar (\$1) beginning with the commencement of the state fiscal year following the publication of the report."

Sec. 5. Subsection (a), Section 7-e, Article 8306, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"(a) In all cases where liability for compensation exists for an injury sustained by an employee in the course of his employment where artificial appliances of any kind would materially and beneficially improve the future usefulness and occupational opportunities of such injured employee, the association shall furnish such employee with the artificial appliance or appliances needed by him for such occupational opportunities and shall continue to furnish the needed artificial appliance or appliances until a satisfactory fit is obtained in the judgment of the attending physician or physicians. The association shall also ~~not~~ be liable for replacing or repairing any artificial appliances so furnished unless the need for the repair or replacement is due to lack of proper care by the employee. The cost of such artificial appliances so furnished to any such employee shall be in keeping with the salary or wages received by such employee."

Sec. 6. Section 9, Article 8306, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"Section 9. If the deceased employee leaves no legal beneficiaries, the association shall pay all expenses incident to his last sickness as a result of the injury, and in addition a funeral benefit not to exceed \$1,250 ~~[Five Hundred Dollars (\$500)]~~.

"If the deceased employee leaves a legal beneficiary or beneficiaries, and is buried at the expense of ~~[the beneficiary or beneficiaries, or is buried at the expense of]~~ his employer or any other person, the expense of such burial, not to exceed \$1,250 ~~[Five Hundred Dollars (\$500)]~~, shall be payable without discount for present payment to the person or persons at whose expense the burial occurred, subject to the approval of the Board; and such burial expense, regardless of to whom it is paid, shall be in addition to the compensation due the beneficiary or beneficiaries of such deceased employee."

Sec. 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

EXHIBIT D

By: Farabee, Mauzy

S.B. No. 1275

Substitute the following for S.B. No. 1275

By Stubbeman

C.S.S.B. No. 1275

A BILL TO BE ENTITLED

AN ACT

relating to workers' compensation regulations and benefits and to confidentiality of certain records; amending Section 12c, Article 8306, Revised Civil Statutes of Texas, 1925, as amended; amending Section 12c-1, Article 8306, Revised Civil Statutes of Texas, 1925, as amended; amending Article 8307, Revised Civil Statutes of Texas, 1925, as amended, by adding Section 9a; amending Subsection (c), Section 29, Article 8306, Revised Civil Statutes of Texas, 1925, as added; amending Section 10, Article 8307, Revised Civil Statutes of Texas, 1925, as amended, and making an appropriation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Section 12c, Article 8306, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"Section 12c. If an employee who has suffered a previous injury shall suffer a subsequent injury which results in a condition of incapacity to which both injuries or their effects have contributed, the association shall be liable because of such injury only for the compensation to which the subsequent injury would have entitled the injured employee had there been no previous injury; provided that there shall be created a fund known as the 'Second Injury Fund,' hereinafter described, from which an employee who has suffered a subsequent injury shall be compensated for the combined incapacities resulting from both injuries. Provided further, however, that notice of injury to the employer and filing of a claim with the Industrial Accident Board, as required by law, shall also be deemed and considered notice to and filing of a claim against the 'Second Injury Fund.' ~~[for all compensation provided by this Act, but said association shall be reimbursed from the 'Second Injury Fund' as hereinafter described, to the extent that the previous injury contributes to the combined incapacity.]~~"

Sec. 2. Section 12c-1, Article 8306, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"Section 12c-1. If an employee who has previously lost, or lost the use of, one hand, one arm, one foot, one leg, or one eye, becomes permanently and totally incapacitated through the loss or loss of use of another member or organ, the association shall be liable only for the [all] compensation payable for such second injury; provided, however, that in addition to such compensation and after the combination of the payments therefor, the employee shall be paid the remainder of the compensation that would be due for the total permanent incapacity out of the special fund known as 'Second Injury Fund,' hereinafter defined [by this Act, not to exceed 401 weeks, but said association shall be reimbursed from the 'Second Injury

~~Fund,' as hereinafter described, to the extent that its payment exceeds the amount due for the second injury as above set out. In order to qualify for reimbursement from the 'Second Injury Fund' under this section, the association must file its claim with the Industrial Accident Board within 100 days following date of injury, together with evidence of its payment of all compensation provided by this Act and of the preexisting permanent physical impairment qualifying the association for such reimbursement. Good cause for late filing as set forth in Section 4(a), Article 8307, Revised Civil Statutes of Texas, 1925, as amended, shall also apply in such claims for reimbursement. Provided further, if the association makes payment in a lump sum to the injured claimant, the association shall be entitled to reimbursement from the 'Second Injury Fund' by lump sum payment]."~~

Sec. 3. Article 8307, Revised Civil Statutes of Texas, 1925, as amended, is amended by adding Section 9a to read as follows:

"Section 9a. (a) Information in a worker's claim file is confidential and may not be disclosed except as provided in this section.

"(b) If there is a workers' compensation claim for the named claimant open or pending before the Industrial Accident Board or on appeal to a court of competent jurisdiction from the Board or which is the subject matter of a subsequent suit where the carrier is subrogated to the rights of the named claimant at the time a record search or request or request for information is presented to the Board, the information shall be furnished as provided in this section. The first, middle, and last name of the claimant, age and social security number, and, if possible, dates of injury and the names of prior employers must be given in the request for information by the requesting party. The Board will furnish the requested information or a record check only to the following:

"(1) the claimant;

"(2) the attorney for the claimant;

"(3) the carrier;

"(4) the employer at the time of the current injury; or

"(5) third party litigants.

A third party litigant in a suit arising out of an occurrence with respect of which a worker's compensation claim was filed is entitled to the information without regard to whether or not the compensation claim is still pending.

"(c) All information of the Industrial Accident Board concerning any person who has been finally adjudicated to be a fraudulent claimant as provided in this section is not confidential and shall be furnished to any person requesting the information notwithstanding any other provision of this law.

"(d) The Board shall release to any employer with whom a person has made application for employment within the fourteen (14) days prior to the request the date of injury and nature of injury to that person if that person has had three or more general injury claims filed in the preceding five years in which weekly compensation payments have been made. The request for information shall give the name, address, and social security number of the person about whom information is sought. The Board may release this information only if the employer has written authorization from the person about whom information is sought. The Board may release the information by telephone, but the employer must file the written authorization with the Board within ten (10) days after the information is released. If the employer requests information about three (3) or more persons at the same time, the Board may refuse to release the information except on written request from the employer and receipt of the written authorization from each person about whom the information is sought. An employer who receives the information but fails to file the authorization within the required period is guilty of a misdemeanor and on conviction shall be fined not more than One Thousand Dollars (\$1,000). Failure to file each authorization is a separate offense.

“(c)(1) The Attorney General shall promptly investigate any allegation of fraud on the part of an employer, employee, attorney, doctor, or insurance company or its representative relating to any claim. In order to carry out the requirements of this section, the Attorney General is vested with complete power to investigate and prosecute any and all allegations of fraudulent claim practices which may be submitted to the Board or which may be uncovered through the Attorney General’s own efforts. The Attorney General shall cooperate with professional grievance committees, law enforcement officials, the Industrial Accident Board and other state agencies in the investigation and prosecution of fraudulent practices. It shall be the responsibility of the Attorney General to prosecute those cases in which it finds the reasonable probability that acts of fraud exist before all hearings of the Board or on appeal from the determination of such hearings.

“(2) In those cases in which a claimant makes a fifth claim for compensation within any five-year period, the Board shall automatically notify the Attorney General who shall investigate to determine if the probability of fraud exists in connection with the current claim or any of the prior claims.

“(3) If the Attorney General finds that a reasonable probability of fraud exists, the Attorney General shall request a hearing and the Board shall set the matter for hearing. On the setting of this matter, the Board shall promptly notify the person under investigation in writing of the allegation against him and of his rights to attend and offer evidence at the hearing. This notice must be mailed by certified mail to the last known address of the person, must state the time and place for the hearing, which shall be within forty-five (45) days after determination by the Attorney General that the probability of fraudulent acts exists and must notify the person of his right to counsel and his right of access to the complete Board files relating to the claim or claims under investigation. This notice shall be forwarded to the person, return receipt requested, acknowledging receipt at least thirty (30) days before the hearing. Any investigation initiated under this section shall be concluded within sixty (60) days unless by a unanimous vote of the Board the time is extended, which in no event may be more than an additional sixty (60) days.

“(f) In addition to the powers granted under Section 4 of this article, as amended, the Board or any member thereof has the power to compel the attendance of witnesses, take evidence, and require the production of any records in conjunction with this hearing. The person under investigation has the same power to compel the attendance of witnesses and the production of records and documents.

“(g) After this hearing, the Board shall reduce its findings to writing and provide the person under investigation with a copy. If the Board determines that the claimant has been fraudulent in any or all of his claims for compensation, the Board shall then classify that claimant as a fraudulent claimant, which designation is final unless appealed by the claimant as provided in this section. If the Board determines that any other person except an employer under investigation has been fraudulent in connection with a claim for compensation, the Board may exercise its authority under Section 4 of this article, as amended, or report its findings to the appropriate professional grievance committee, law enforcement officials, or other state agencies for prosecution, or both. An employer who has been adjudicated to be fraudulent shall be subject to the provisions of Chapter 115, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8307c, Vernon’s Texas Civil Statutes), as if he had discriminated against an employee for filing a claim. Actions taken by the Board in accordance with this procedure may be appealed by the aggrieved person by trial de novo to a district court of competent jurisdiction in the county of his residence, whose final judgment shall be determinative of his classification as a fraudulent claimant. Appeal shall be in accordance with Section 5 of this article, as amended.

“(h) Pending an investigation and hearing or appeal of allegations of fraud under this section, the Board may not approve a compromise settlement agreement

or make a final award in connection with the worker's claims then pending before the Board.

"(i) If any worker is finally adjudicated to be a fraudulent claimant, that fact shall automatically be furnished to any employer, any insurance carrier, or any attorney for the claimant as regards all claims then pending before the Board and as regards all future claims which that claimant may thereafter file with the Industrial Accident Board; otherwise, the Board shall process the claim as generally provided under the workers' compensation law.

"(j) Nothing in the preceding sections shall diminish the power of the Industrial Accident Board on its own initiative to investigate or punish fraudulent acts.

"(k) This section does not give authority to withhold information from committees of the legislature to use for legislative purposes.

"(l) Any information pertaining to a worker's compensation file which is confidential by virtue of any of the terms of this Act shall retain such confidentiality when released to any investigative, legislative, or law enforcement agency including the Attorney General, District Attorneys, Grand Juries, or Legislative Committees. Any individual who shall publish, disclose, or distribute any such confidential information which is possessed by any investigative, legislative, or law enforcement agency to any other individual, corporation, or association not entitled to have received such information directly from the Industrial Accident Board under the provisions of this law commits an offense, and any person, corporation, or association who receives any such confidential information when such person was not entitled to have received the same from the Industrial Accident Board under the provisions of this law commits an offense. An offense under this subsection is a Class A misdemeanor. Any District Court of Travis County shall have jurisdiction to enjoin possession and the use by any individual, corporation, or association of any information made confidential by this Act when such possession or use is not authorized by this Act. This subsection does not prohibit an employer from releasing information about a former employee to another employer with whom the employee has made application for employment, provided such information was lawfully acquired by the employer releasing the same.

"(m) Nothing herein prohibits any person from receiving from the Industrial Accident Board all information contained in any record or file of the Industrial Accident Board begun after December 31, 1971, in statistical form and in a manner so as not to disclose the name or identity of any person, except as provided in this section.

"(n) Notwithstanding any other provision of law, a hospital or clinic shall release to any party entitled to information of the Board under Subsection (b) of this section the medical records in the custody of the hospital or clinic relating to the treatment of injuries for which a claim for compensation has been made.

"(o) All money paid out by the Association for the benefit of any injured worker shall be reported in full to the Board, whether or not a claim for compensation was filed, and such information shall be recorded by the Board."

Sec. 4. Section 10, Article 8307, Revised Civil Statutes of Texas, 1925, as amended, is amended by adding Subsection (c) to read as follows:

"(c) The Board and its members shall keep a complete mechanical, electronic, or stenographic record of all hearings except pre-hearings."

Sec. 5. Subsection (c), Section 29, Article 8306, Revised Civil Statutes of Texas, 1925, as added, is amended to read as follows:

"(c) If the annual average of the manufacturing production workers average weekly wage in Texas exceeds by Ten Dollars (\$10) the average weekly wage for those workers in 1974 as determined by the Texas Employment Commission and published in its report, 'The Average Weekly Wage,' the maximum weekly benefit

shall be increased by Seven Dollars (\$7) and the minimum weekly benefit shall be increased by One Dollar (\$1) above the amounts specified in Subsection (b) of this section beginning with the commencement of the state fiscal year following the publication of the report. Thereafter, each cumulative ~~additional~~ Ten Dollar (\$10) increase in the average weekly wage for manufacturing production workers in Texas as annually determined and reported by the Texas Employment Commission shall increase cumulatively the maximum weekly benefit by an additional Seven Dollars (\$7) and the minimum weekly benefit by an additional One Dollar (\$1) beginning with the commencement of the state fiscal year following the publication of the report."

Sec. 6. For the purpose of carrying out the investigations required by this Act, there is appropriated to the Attorney General's Office from the General Revenue Fund the amount of \$80,560 for the year ending August 31, 1978, and \$87,060 for the year ending August 31, 1979.

Sec. 7. (a) It is the intent of the legislature that a system of self-insurance for worker's compensation liabilities for Texas employers be adopted by the 66th Legislature. There is hereby created a Study Commission on Texas Worker's Compensation to prepare legislative recommendations in compliance with this stated intent.

(b) The commission shall consist of the following members:

(1) four members appointed by the speaker of the house, one of whom he shall designate as chairman;

(2) four members appointed by the lieutenant governor, one of whom he shall designate as vice-chairman; and

(3) four members appointed by the governor.

(c) The commission shall meet and organize before September 1, 1977. Appointments shall be made by the appropriate official by notifying the secretary of state in writing at least two weeks prior to the organizational meeting of the commission. The commission shall meet as often as necessary to carry out its purposes.

(d) The legislative council shall provide staff assistance to the commission if necessary.

(e) The Industrial Accident Board and the State Board of Insurance shall provide all information and reports which the commission requests and cooperate to the fullest possible extent to assist the commission in this study.

(f) No member of the commission shall be entitled to any compensation, except all reasonable travel and other expenses shall be paid to the commission members. Any commission member who is a member of the legislature shall be entitled to reimbursement of his expenses from the appropriate contingent expense fund.

(g) The commission is authorized to employ such staff as it sees fit to carry out its function.

(h) The commission shall have authority to adopt reasonable rules and regulations in relation to such items as meetings, quorums, voting, and other matters relating to the orderly conduct of its business.

(i) The commission shall make specific recommendations, including proposed legislation to the governor, lieutenant governor, speaker of the house, legislative council, and members of the legislature on or before November 15, 1978. The report shall offer specific recommendations and legislation designed to enact a program of self-insurance of worker's compensation liability.

Sec. 8. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

COMMITTEE REPORT

The Honorable Bill Clayton

5/19/77

Speaker of the House of Representatives

Sir:

We, your COMMITTEE ON STATE AFFAIRS, to whom was referred S.B. 1275 have had the same under consideration and beg to report back with the recommendation that it

- () ~~do pass, without amendment.~~
- () ~~do pass, with amendment(s).~~
- (x) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested on 5/12/77 and is attached as part of this report.

~~Author's fiscal statement attached~~

~~The Committee recommends that this measure be placed on the (Local/Consent) Calendar.~~

This measure (x) proposes new law.
 () ~~amends existing law.~~

House Sponsor of Senate Measure: Grant, Powers

The measure was reported from Committee by the following vote:

Ayes: Uher, Hocstenbach, Simpson, Blythe, Bock, Edwards, Florence, G. Green, Wallace.

Nays: Brown, McFarland, Stubbeman.

Present-Not voting: Ceverha.

Absent: Henderson, Weddington.

Total

9 aye
3 nay
1 present, not voting
2 absent

D. R. Uher
CHAIRMAN

Reynolds
COMMITTEE COORDINATOR

S.B. 1275By: Farabee
HOUSE SPONSOR: Grant,
Powers**HOUSE COMMITTEE ON STATE AFFAIRS****BILL ANALYSIS****Background Information:**

Prior to 1971, if an employee who had suffered a prior compensable injury subsequently suffers another compensable injury resulting in a percentage of incapacity to which the prior injury contributes to some degree, then the insurance company would receive credit for the compensation paid for the prior injury. The insurer would be liable on the second injury only to the extent the subsequent injury would have entitled the employee to compensation had there been no prior injury.

Section 12c was amended in 1971 with the result that the insurer no longer receives credit for the prior compensation received by an employee for a general injury. That section now permits double recoveries on the same general injury, increasing the cost to employers of providing workers compensation coverage and discouraging employment of handicapped or previously injured employees.

The Open Records Act, as passed in 1973, did not specifically except the records of the Industrial Accident Board from the provisions of the Act. The courts have subsequently ruled that unless the records are statutorily excepted from the provisions of the Act, the IAB records must be opened. Prior to the passage of the Open Records Act, the records of the IAB were closed since 1961 under rules promulgated by the Industrial Accident Board. Rule 9.040 provided that the Board would furnish information in an open or pending claim to interested parties (claimant, attorneys of the parties, the employer at the time of injury, and third party litigants).

Currently, the Industrial Accident Board has limited powers and resources for the investigation of fraudulent practices on the part of claimants, attorneys, and insurers under Section 4 of Art. 8307 and under rules promulgated by the Board. (See, for example, Rule 1.080 and Chapter 13 of the Rules of the IAB) The Board has power to suspend payments to claimants and to prevent attorneys or insurance agents from practicing before the Board, after notice and hearing to the affected persons. However, the Board lacks the investigative resources necessary to fully utilize those responsibilities and powers. There are no provisions for the automatic investigation of allegations of fraud or of multiple claimants.

Subsection (c) of Art. 8306 establishes the maximum and minimum weekly benefits payable, providing an automatic annual adjustment of benefit levels based on increases in the annual average weekly wage. Confusion as to the interpretation of Subsection (c) has arisen concerning whether the increases in the benefits are based on cumulative \$10 increases in the average wage or whether the additional increases each year are considered apart from the increases of the prior year.

Texas is one of the very few states which does not permit any form of self-insurance by employers. Self-insurance could enable some employers to reduce the cost of providing coverage.

What the Bill Proposes:

This bill seeks to return certain provisions of the workers compensation statutes to a status similar to that prior to the 1971 and 1973 changes, to provide more effective tools for investigation of fraudulent practices, and to clarify any ambiguity

with respect to the annual computation of the maximum weekly benefits. The bill also proposes to a study commission to develop legislation which would allow employers to self-insure.

Section by Section Analysis:

Section 1. Amends Section 12 of Art. 8306 to provide that an insurer is liable only for the degree of incapacity attributable to the subsequent general injury and not for the incapacity attributable of a prior general injury.

Section 2. Amends Section 12c-1 of Art. 8306 to provide that an insurer shall be liable only for the compensation payable for a subsequent injury and not for that attributable to and payable on a prior specific injury.

Section 3. Adds a new Section 9a to Art. 8307 to provide that information in a worker's claim file is confidential; except as follows:

- (a) open to interested parties to a pending claim, including third party litigants
- (b) open if the claimant has been found to be fraudulent claimant
- (c) open to employers with whom the worker has applied for employment if the worker has previously filed three general injury claims within five years, or more than three general injury claims within 5 years.
- (d) open to carriers in subrogation suits
- (e) open to the Legislature;

The bill further provides that certain medical records and statistical information are open. The new section requires the Attorney General to investigate allegations of fraud and any claimant who has filed a fifth claim within a 5-year period. The bill sets out provisions for hearings where the Attorney General finds a reasonable possibility of fraud exists. The Industrial Accident Board is given specific authority to take action against persons found to have engaged in fraudulent practices. The section further provides penalties for the unauthorized distribution of information obtained from the records of the Industrial Accident Board. Finally, the Board is required to keep a record of all payments by an insurer for the benefit of an injured worker.

Section 4. Adds a new Section 10 to Art. 8307 which would require the Industrial Accident Board to keep complete records of all hearings, except pre-hearings.

Section 5. Amends Section 29 of Art. 8306 to provide that annual adjustments to the maximum benefits shall be based on the cumulative \$10 increases in the annual average weekly wage.

Section 6. Makes an appropriation to the Office of the Attorney General to carry out investigations required by the Act.

Section 7. Creates an interim study commission for the purpose of recommending legislation to permit self-insurance of workers' compensation liability.

Section 8. Emergency clause.

Comparison of Committee Substitute and Original Bill:

Sections 1 and 2 are unchanged.

Section 3 of the original bill provided access to Board records only to interested parties to a pending claim, for statistical purposes, or in the event a particular claimant is adjudicated to be fraudulent. The substitute opens the records under additional circumstances.

Section 3 of the original bill mandated fraud investigations by the Industrial Accident Board. The substitute places that responsibility with the Attorney General.

Section 4 of the original bill relating to cumulative increases is contained in Section 5 of the substitute.

Section 5 of the original bill provided for replacement and repair of artificial appliances at the expense of the insurance company. The substitute deletes that provision.

Section 6 of the original bill provided for increased funeral benefits while the substitute deletes that provision.

SUMMARY OF COMMITTEE ACTION:

S.B. 1275 was considered by Committee in Public Hearing on May 16, 1977. The measure was referred to Subcommittee.

The Subcommittee considered the measure on May 19, 1977 and voted to recommend that it be reported to Committee with the recommendation that it do pass in the form of a Complete Committee Substitute.

The House Rules having been suspended, the Committee voted on May 19, 1977 to report back with the recommendation that **S.B. 1275** do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

This bill both proposes new law and amends existing law.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

May 19, 1977

Honorable D. R. Uher, Chairman
Committee on State Affairs
House of Representatives
Austin, Texas

In Re: Committee Substitute for
Senate Bill No. 1275

Sir:

In response to your request pursuant to House Rule V, Section 28, this office finds the fiscal implications of Committee Substitute for Senate Bill No. 1275 (relating to workers' compensation regulations and benefits and to confidentiality of certain records) to be as follows:

The bill would make no appropriation but would constitute prior legislative authorization for an appropriative request.

The following estimate assumes four additional employees in the Attorney General's Office in fiscal 1978 plus one in fiscal 1979.

The probable cost of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

<u>Fiscal Year</u>	<u>Out of the General Revenue Fund</u>
1978	\$ 80,560
1979	87,060
1980	87,060
1981	87,060
1982	87,060

Similar annual costs would continue as long as the provisions of the bill are in effect.

Thomas M. Keel
Director

Source: Attorney General; Industrial Accident Board; LBB Staff

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

May 13, 1977

Honorable D. R. Uher, Chairman
Committee on State Affairs
House of Representatives
Austin, Texas

In Re: Senate Bill No. 1275,
as engrossed
By: Farabee

Sir:

In response to your request pursuant to House Rule V, Section 28, this office finds the fiscal implications of Senate Bill No. 1275, as engrossed (relating to workers' compensation regulations and benefits and to confidentiality of certain records) to be as follows:

No significant fiscal implication or additional cost to the State or units of local government attributable to the bill, should it be enacted, is anticipated.

Thomas M. Keel
Director

Source: Attorney General; Industrial Accident Board; LBB Staff

EXHIBIT E

By: Farabee, Mauzy

S.B. No. 1275

A BILL TO BE ENTITLED

AN ACT

relating to workers' compensation regulations and benefits and to confidentiality of certain records; amending Section 12c, Article 8306, Revised Civil Statutes of Texas, 1925, as amended; amending Section 12c-1, Article 8306, Revised Civil Statutes of Texas, 1925, as amended; amending Article 8306, Revised Civil Statutes of Texas, 1925, as amended, by adding thereto a new section designated as Section 12c-1a; amending Subsection (c), Section 29, Article 8306, Revised Civil Statutes of Texas, 1925, as amended; amending Subsection (a), Section 7-e, Article 8306, Revised Civil Statutes of Texas, 1925, as amended; amending Section 9, Article 8306, Revised Civil Statutes of Texas, 1925, as amended; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Section 12c, Article 8306, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"Section 12c. If an employee who has suffered a previous injury shall suffer a subsequent injury which results in a condition of incapacity to which both injuries or their effects have contributed, the association (Texas Employer's Insurance Association) shall be liable because of such injury only for the compensation to which the subsequent injury would have entitled the injured employee had there been no previous injury; provided that there shall be created a fund known as the 'Second-Injury Fund,' hereinafter described, from which an employee who has suffered a subsequent injury shall be compensated for the combined incapacities resulting from both injuries. Provided further, however, that notice of injury to the employer and filing of a claim with the Industrial Accident Board, as required by law, shall also be deemed and considered notice to and filing of a claim against the 'Second-Injury Fund.' ~~[for all compensation provided by this Act, but said association shall be reimbursed from the 'Second-Injury Fund' as hereinafter described, to the extent that the previous injury contributes to the combined incapacity.]~~"

Sec. 2. Section 12c-1, Article 8306, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"Section 12c-1. If an employee who has previously lost, or lost the use of, one hand, one arm, one foot, one leg, or one eye, becomes permanently and totally incapacitated through the loss or loss of use of another member or organ, the association shall be liable only for the ~~entire~~ compensation payable for such second injury provided, however, that in addition to such compensation and after the combination of the payments therefore, the employee shall be paid the remainder of the compensation that would be due for the total permanent incapacity out of the special fund known as 'Second-Injury Fund,' hereinafter defined ~~[by this Act, not to exceed 401 weeks, but said association shall be reimbursed from the 'Second-Injury Fund,' as hereinafter described, to the extent that its payment exceeds the amount due for the second injury as above set out. In order to qualify for reimbursement from the 'Second-Injury Fund' under this section, the association must file its claim, with the Industrial Accident Board within 100 days following date of injury, together with evidence of its payment of all compensation provided by this Act and of the preexisting permanent physical impairment qualifying the association for such reimbursement. Good cause for late filing as set forth in Section 4(a), Article 8307, Revised Civil Statutes of Texas, 1925, as amended, shall also apply in such claims for reimbursement. Provided further, if the association makes payment in a lump sum to the injured claimant, the association shall be entitled to reimbursement from the 'Second-Injury Fund' by lump sum payment].~~"

Sec. 3. Article 8306, Revised Civil Statutes of Texas, 1925, as amended, is amended by adding a new Section 12c-1a to read as follows:

"Section 12c-1a. CONFIDENTIALITY OF CLAIM FILES. Information in a workers' claim file is confidential and may not be disclosed except under the following circumstances:

"1. If there is a workers' compensation claim for the named claimant open or pending before the Industrial Accident Board or on appeal to a court of competent jurisdiction from the board at the time a record search or request or request for information is presented to the board, such information shall be furnished as provided in this section. The first, middle, and last name of the claimant, age and social security number, and, if possible, dates of injury and the name of prior employers must be given in the request for information by the requesting party. The board will furnish the requested information or a record check only to the following:

- "(1) the claimant;
- "(2) the attorney for the claimant;
- "(3) the carrier;
- "(4) the employer at the time of the current injury;
- "(5) third party litigants.

"2. All information of the Industrial Accident Board concerning any person who has been finally adjudicated to be a fraudulent claimant (as provided hereinafter) shall not be confidential and shall be furnished to any person requesting such information notwithstanding any other provision of this Act.

"3. The board shall promptly investigate any allegation of fraud relating to any claim. In those cases in which any claimant shall make a fifth claim for compensation within any five-year period, the board shall automatically review the current claim as well as all of the claimant's prior claims to determine whether or not there is a reasonable probability to believe that fraud exists. Should the board determine that the probability of fraud exists in connection with the current claim or any of the prior claims, the board shall set the matter for a hearing before the board pursuant to its powers under this section and Article 8307(4). Upon the setting of any such matter, the board shall promptly notify the claimant in writing of the allegation against him and of his rights to attend and offer evidence at such hearing. Said notice shall be mailed by certified mail to the last known address of the claimant, shall state the time and place for such hearing, which shall be within 45 days after determination by the board that the probability of fraud exists, shall notify the claimant of his right to counsel and his right of access to his complete board files. Such notice shall be forwarded to the claimant, return receipt requested, acknowledging receipt at least 30 days before such hearing. Any investigation initiated under this section shall be concluded within 60 days unless by a unanimous vote of the board the time is extended, which in no event shall be more than an additional 60 days.

"4. In addition to the powers granted under Article 8307(4), the board or any member thereof shall have the power to compel the attendance of witnesses, take evidence, and require the production of any records in conjunction with such hearing. The claimant shall likewise have the same power to compel the attendance of witnesses and the production of records and documents.

"5. After any such hearing, the board shall reduce its findings to writing and provide the claimant with a copy of such findings. If the board determines that the claimant has been fraudulent in any or all of his claims for compensation, the board shall then classify such claimant as a fraudulent claimant, which designation shall be final unless appealed by the claimant as hereinafter provided. Actions taken by the board pursuant to this procedure may be appealed by the aggrieved person by trial de novo to a district court of competent jurisdiction in the county of his residence whose final judgment shall be determinative of his classification as a fraudulent claimant. Appeal hereunder shall be in accordance with Section 5, Article 8307.

"6. Pending any investigation and hearing or appeal of allegations of fraud pursuant to this section, the board shall not approve any compromise settlement agreement or make any final award in connection with any of said worker's claims then pending before the board.

"7. If any worker shall be finally adjudicated to be a fraudulent claimant, such fact shall automatically be furnished to any employer, any insurance carrier, as well as any attorney for the claimant as regards all claims then pending before the board and as regards all future claims which that claimant may thereafter file with the Industrial Accident Board; otherwise, the board shall process such claim as generally provided under the workers' compensation law.

"8. (a) In order to carry out the above mandates, the Industrial Accident Board shall establish an investigative division of the board with complete power to investigate any and all allegations of fraudulent claim practices which may be submitted to the board or which may be uncovered through its own efforts. The board through its investigative division shall cooperate with professional grievance committees, law enforcement officials, and other state agencies in the investigation and prosecution of fraudulent practices.

"(b) The board may employ attorneys, investigators, and clerical help necessary to the functioning of its investigators and clerical help necessary to the functioning of its investigative division.

"9. Nothing herein shall prohibit any person from receiving from the Industrial Accident Board all information contained in any record or file of the Industrial Accident Board in statistical form and in such manner so as not to disclose the name or identity of any person, except as provided hereinabove."

Sec. 4. Subsection (c), Section 29, Article 8306, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"(c) If the annual average of the manufacturing production workers average weekly wage in Texas exceeds by Ten Dollars (\$10) the average weekly wage for those workers in 1974 as determined by the Texas Employment Commission and published in its report, 'The Average Weekly Wage,' the maximum weekly benefit shall be increased by Seven Dollars (\$7) and the minimum weekly benefit shall be increased by One Dollar (\$1) above the amounts specified in Subsection (b) of this section beginning with the commencement of the state fiscal year following the publication of the report. Thereafter, each cumulative ~~additional~~ Ten Dollar (\$10) increase in the average weekly wage for manufacturing production workers in Texas as annually determined and reported by the Texas Employment Commission shall increase cumulatively the maximum weekly benefit by an additional Seven Dollars (\$7) and the minimum weekly benefit by an additional One Dollar (\$1) beginning with the commencement of the state fiscal year following the publication of the report."

Sec. 5. Subsection (a), Section 7-e, Article 8306, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"(a) In all cases where liability for compensation exists for an injury sustained by an employee in the course of his employment where artificial appliances of any kind would materially and beneficially improve the future usefulness and occupational opportunities of such injured employee, the association shall furnish such employee with the artificial appliance or appliances needed by him for such occupational opportunities and shall continue to furnish the needed artificial appliance or appliances until a satisfactory fit is obtained in the judgment of the attending physician or physicians. The association shall also ~~not~~ be liable for replacing or repairing any artificial appliances so furnished unless the need for the repair or replacement is due to lack of proper care by the employee. The cost of such artificial appliances so furnished to any such employee shall be in keeping with the salary or wages received by such employee."

Sec. 6. Section 9, Article 8306, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"Section 9. If the deceased employee leaves no legal beneficiaries, the association shall pay all expenses incident to his last sickness as a result of the injury, and in addition a funeral benefit not to exceed \$1,250 [~~Five Hundred Dollars (\$500)~~].

"If the deceased employee leaves a legal beneficiary or beneficiaries, and is buried at the expense of ~~[the beneficiary or beneficiaries, or is buried at the expense of]~~ his employer or any other person, the expense of such burial, not to exceed \$1,250 [~~Five hundred Dollars (\$500)~~], shall be payable without discount for present payment to the person or persons at whose expense the burial occurred, subject to the approval of the Board; and such burial expense, regardless of to whom it is paid, shall be in addition to the compensation due the beneficiary or beneficiaries of such deceased employee."

Sec. 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

COMMITTEE REPORT

THE HONORABLE BILL CLAYTON
SPEAKER OF THE HOUSE OF REPRESENTATIVES

SIR:

Pursuant to the provisions of Section 36 of Rule V, Rules of the House of Representatives, We, your COMMITTEE ON CALENDARS, to whom was referred S.B. No. 1275, order the same printed and distributed in the form in which it was originally received by the House.

House Sponsor of S.B. No. 1275: Grant

Blake, Ch. Nay
McBee Aye
Adams Aye
Davis Nay
B. Hall Aye
Nugent Aye
Orr
R. Wilson Aye
Wyatt Nay

Totals:

Aye 5
Nay 3
PNV
Absent 1

Roy Blake, Chairman
May 26, 1977

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

May 13, 1977

Honorable D. R. Uher, Chairman
Committee on State Affairs
House of Representatives
Austin, Texas

In Re: Senate Bill No. 1275,
as engrossed
By: Farabee

Sir:

In response to your request pursuant to House Rule V, Section 28, this office finds the fiscal implications of Senate Bill No. 1275, as engrossed (relating to workers' compensation regulations and benefits and to confidentiality of certain records) to be as follows:

No significant fiscal implication or additional cost to the State or units of local government attributable to the bill, should it be enacted, is anticipated.

Thomas M. Keel
Director

Source: Attorney General; Industrial Accident Board; LBB Staff

EXHIBIT F

Amendment No. 1

Amend **S.B. 1275** by striking all below the enacting clause and substitute therefore the following:

Section 1. Section 12c, Article 8306, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"Section 12c. If an employee who has suffered a previous injury shall suffer a subsequent injury which results in a condition of incapacity to which both injuries or their effects have contributed, the association shall be liable because of such injury only for the compensation to which the subsequent injury would have entitled the injured employee had there been no previous injury; provided that there shall be created a fund known as the 'Second Injury Fund,' hereinafter described, from which an employee who has suffered a subsequent injury shall be compensated for the combined incapacities resulting from both injuries. Provided further, however, that notice of injury to the employer and filing of a claim with the Industrial Accident Board, as required by law, shall also be deemed and considered notice to and filing of a claim against the 'Second Injury Fund.' ~~[for all compensation provided by this Act, but said association shall be reimbursed from the 'Second Injury Fund' as hereinafter described, to the extent that the previous injury contributes to the combined incapacity.]~~"

Sec. 2. Section 12c-1, Article 8306, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

"Section 12c-1. If an employee who has previously lost, or lost the use of, one hand, one arm, one foot, one leg, or one eye, becomes permanently and totally incapacitated through the loss or loss of use of another member or organ, the association shall be liable only for the [all] compensation payable for such second injury; provided, however, that in addition to such compensation and after the combination of the payments therefor, the employee shall be paid the remainder of the compensation that would be due for the total permanent incapacity out of the special fund known as 'Second Injury Fund,' hereinafter defined [by this Act, not to exceed 401 weeks, but said association shall be reimbursed from the 'Second Injury Fund,' as hereinafter described, to the extent that its payment exceeds the amount due for the second injury as above set out. In order to qualify for reimbursement from the 'Second Injury Fund' under this section, the association must file its claim with the Industrial Accident Board within 100 days following date of injury, together with evidence of its payment of all compensation provided by this Act and of the preexisting permanent physical impairment qualifying the association for such reimbursement. Good cause for late filing as set forth in Section 4(a), Article 8307, Revised Civil Statutes of Texas, 1925, as amended, shall also apply in such claims for reimbursement. Provided further, if the association makes payment in a lump sum to the injured claimant, the association shall be entitled to reimbursement from the 'Second Injury Fund' by lump sum payment]."

Sec. 3. Article 8307, Revised Civil Statutes of Texas, 1925, as amended, is amended by adding Section 9a to read as follows:

"Section 9a. (a) Information in a worker's claim file is confidential and may not be disclosed except as provided in this section.

"(b) If there is a workers' compensation claim for the named claimant open or pending before the Industrial Accident Board or on appeal to a court of competent jurisdiction from the Board or which is the subject matter of a subsequent suit where the carrier is subrogated to the rights of the named claimant at the time a record search or request for information is presented to the Board, the information shall be furnished as provided in this section. The first, middle, and last name of the claimant, age and social security number, and, if possible, dates of injury and the names of prior employers must be given in the request for information by the requesting party. The Board will furnish the requested information or a record check only to the following:

- "(1) the claimant;
- "(2) the attorney for the claimant;
- "(3) the carrier;
- "(4) the employer at the time of the current injury; or
- "(5) third party litigants;
- "(6) the State Board of Insurance.

A third party litigant in a suit arising out of an occurrence with respect of which a worker's compensation claim was filed is entitled to the information without regard to whether or not the compensation claim is still pending.

"(c) All information of the Industrial Accident Board concerning any person who has been finally adjudicated to be a fraudulent claimant as provided in this section is not confidential and shall be furnished to any person requesting the information notwithstanding any other provision of this law.

"(d) The Board shall release to any employer with whom a person has made application for employment within the fourteen (14) days prior to the request the date of injury and nature of injury to that person if that person has had three or more general injury claims filed in the preceding five years in which weekly compensation payments have been made. The request for information shall give the

name, address, and social security number of the person about whom information is sought. The Board shall release this information only if the employer has written authorization from the person about whom information is sought. The Board shall release the information by telephone, but the employer must file the written authorization with the Board within ten (10) days after the information is released. If the employer requests information about three (3) or more persons at the same time, the Board may refuse to release the information except on written request from the employer and receipt of the written authorization from each person about whom the information is sought. An employer who receives the information but fails to file the authorization within the required period is guilty of a misdemeanor and on conviction shall be fined not more than One Thousand Dollars (\$1,000). Failure to file each authorization is a separate offense.

“(e)(1) The Attorney General shall promptly investigate any allegation of fraud on the part of an employer, employee, attorney, person or facility furnishing medical services authorized by Section 7 of Art. 8306, or insurance company or its representative relating to any claim. In order to carry out the requirements of this section, the Attorney General is vested with complete power to investigate and prosecute any and all allegations of fraudulent claim practices which may be submitted to the Board or which may be uncovered through the Attorney General's own efforts. The Attorney General shall cooperate with professional grievance committees, law enforcement officials, the Industrial Accident Board and other state agencies in the investigation and prosecution of fraudulent practices. It shall be the responsibility of the Attorney General to prosecute those cases in which it finds the reasonable probability that acts of fraud exist before all hearings of the Board or on appeal from the determination of such hearings.

“(2) In those cases in which a claimant makes a fifth claim for compensation within any five-year period, the Board shall automatically notify the Attorney General who shall investigate to determine if the probability of fraud exists in connection with the current claim or any of the prior claims.

“(3) If the Attorney General finds that a reasonable probability of fraud exists, the Attorney General shall request a hearing and the Board shall set the matter for hearing. On the setting of this matter, the Board shall promptly notify the person under investigation in writing of the allegation against him and of his rights to attend and offer evidence at the hearing. This notice must be mailed by certified mail to the last known address of the person, must state the time and place for the hearing, which shall be within forty-five (45) days after determination by the Attorney General that the probability of fraudulent acts exists and must notify the person of his right to counsel and his right of access to the complete Board files relating to the claim or claims under investigation. This notice shall be forwarded to the person, return receipt requested, acknowledging receipt at least thirty (30) days before the hearing. Any investigation initiated under this section shall be concluded within sixty (60) days unless by a unanimous vote of the Board the time is extended, which in no event may be more than an additional sixty (60) days.

“(f) In addition to the powers granted under Section 4 of this article, as amended, the Board or any member thereof has the power to compel the attendance of witnesses, take evidence, and require the production of any records in conjunction with this hearing. The person under investigation has the same power to compel the attendance of witnesses and the production of records and documents.

“(g) After this hearing, the Board shall reduce its findings to writing and provide the person under investigation with a copy. If the Board determines that the claimant has been fraudulent in any or all of his claims for compensation, the Board shall then classify that claimant as a fraudulent claimant, which designation is final unless appealed by the claimant as provided in this section. If the Board determines that any other person except an employer under investigation has been fraudulent in

connection with a claim for compensation, the Board may exercise its authority under Section 4 of this article, as amended, or report its findings to the appropriate professional grievance committee, law enforcement officials, or other state agencies for prosecution, or both. An employer who has been adjudicated to be fraudulent shall be subject to the provisions of Chapter 115, Acts of the 62nd Legislature, Regular Session, 1971 (Article 8307c, Vernon's Texas Civil Statutes), as if he had discriminated against an employee for filing a claim. Actions taken by the Board in accordance with this procedure may be appealed by the aggrieved person by trial de novo to a district court of competent jurisdiction in the county of his residence, whose final judgment shall be determinative of his classification as a fraudulent claimant. Appeal shall be in accordance with Section 5 of this article, as amended.

"(h) Pending an investigation and hearing or appeal of allegations of fraud under this section, the Board may not approve a compromise settlement agreement or make a final award in connection with the worker's claims then pending before the Board.

"(i) If any worker is finally adjudicated to be a fraudulent claimant, that fact shall automatically be furnished to any employer, any insurance carrier, or any attorney for the claimant as regards all claims then pending before the Board and as regards all future claims which that claimant may thereafter file with the Industrial Accident Board; otherwise, the Board shall process the claim as generally provided under the workers' compensation law.

"(j) Nothing in the preceding sections shall diminish the power of the Industrial Accident Board on its own initiative to investigate or punish fraudulent acts.

"(k) This section does not give authority to withhold information from committees of the legislature to use for legislative purposes.

"(l) Any information pertaining to a worker's compensation file which is confidential by virtue of any of the terms of this Act shall retain such confidentiality when released to any investigative, legislative, or law enforcement agency including the Attorney General, District Attorneys, Grand Juries, or Legislative Committees. Any individual who shall publish, disclose, or distribute any such confidential information which is possessed by any investigative, legislative, or law enforcement agency to any other individual, corporation, or association not entitled to have received such information directly from the Industrial Accident Board under the provisions of this law commits an offense, and any person, corporation, or association who receives any such confidential information when such person was not entitled to have received the same from the Industrial Accident Board under the provisions of this law commits an offense. An offense under this subsection is a Class A misdemeanor. Any District Court of Travis County shall have jurisdiction to enjoin possession and the use by any individual, corporation, or association of any information made confidential by this Act when such possession or use is not authorized by this Act. This subsection does not prohibit an employer from releasing information about a former employee to another employer with whom the employee has made application for employment, provided such information was lawfully acquired by the employer releasing the same.

"(m) Nothing herein prohibits any person from receiving from the Industrial Accident Board all information contained in any record or file of the Industrial Accident Board begun after September 1, 1971, in statistical form and in a manner so as not to disclose the name or identity of any person, except as provided in this section.

Sec. 4. Subsection (c), Section 29, Article 8306, Revised Civil Statutes of Texas, 1925, as added, is amended to read as follows:

"(c) If the annual average of the manufacturing production workers average weekly wage in Texas exceeds by Ten Dollars (\$10) the average weekly wage for

those workers in 1974 as determined by the Texas Employment Commission and published in its report, 'The Average Weekly Wage,' the maximum weekly benefit shall be increased by Seven Dollars (\$7) and the minimum weekly benefit shall be increased by One Dollar (\$1) above the amounts specified in Subsection (b) of this section beginning with the commencement of the state fiscal year following the publication of the report. Thereafter, each cumulative ~~additional~~ Ten Dollar (\$10) increase in the average weekly wage for manufacturing production workers in Texas as annually determined and reported by the Texas Employment Commission shall increase cumulatively the maximum weekly benefit by an additional Seven Dollars (\$7) and the minimum weekly benefit by an additional One Dollar (\$1) beginning with the commencement of the state fiscal year following the publication of the report."

Sec. 5. For the purpose of carrying out the investigations required by this Act, there is appropriated to the Attorney General's Office from the General Revenue Fund the amount of \$80,560 for the year ending August 31, 1978, and \$87,060 for the year ending August 31, 1979.

Sec. 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended; and that this Act take effect and be in force from and after its passage, and it is so enacted.

Amendment No. 2

Amend the Grant Amendment to S.B. No. 1275, Page 5, by inserting a new Subsection (i) as follows:

"(i) If any worker shall be finally adjudicated to be a fraudulent claimant, the Board may terminate any compensation which the fraudulent claimant is currently drawing and require repayment to the Association of any amounts so drawn."

and reletter subsequent subsections accordingly.

Amendment No. 8

Amend Grant Admendment to S.B. No. 1275, Section 3., at Page 4, Line 21, by adding the following language after the word investigation: " , as well as the other parties involved in the case,"

Amendment No. 9

Amend Grant Amendment to S.B. No. 1275, Section 3., Page 5, Line 9, by adding the following language after the word investigation: " , as well as the other parties involved in the case,"

Amendment No. 13

Amend the Grant Amendment to S.B. No. 1275 to add a new Section ____ to provide the following:

"Sec. ____ . Article 8307, Revised Civil Statutes of Texas, 1925, as amended, is amended by adding Section 4(b) to read as follows:

"Sec. 4(b). Sections 1 through 12 of the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) apply to the Industrial Accident Board. However, Sections 4(a) (3), and 13 through 20 of the Administrative Procedure and Texas Register Act do not apply and Section 4(b) of that Act shall not apply to orders and decisions of the Industrial Accident Board."

EXHIBIT G

GOVERNOR HOBBY: Senator from Brazos.

MOORE: Mr. President and Members of the Senate, this is a rerun of a bill that we got 23 votes for yesterday. I think I said it all yesterday...on the speed...you can't penalize (inaudible)...for going between 55 and 70...on the insurance or you can't use it as a penalty to take his drivers license. You still pay a fine...the law enforcement...it doesn't effect law enforcement, but it doesn't put...if this bill passes no longer will the insurance companies reap the profit off the poor fellows who happen to be too poor to hire a lawyer to keep from paying his speeding ticket.

(Unidentified): Mr. President, will the Senator yield?

MOORE: Yes.

GOVERNOR HOBBY: Senator yields.

(Unidentified): This does not in any way effect the...Senator...this does not in any way effect the money from the Federal Government, does it?

MOORE: No, I don't think it does, Senator, at least no one has come up here opposing this bill and saying it does.

(Unidentified): Nobody opposed this bill, have they?

MOORE: Nobody, except 4 or 5 Senators, Senator, I couldn't tell you who they are, I got a list of them I keep on file. (Laughter)

(Unidentified): You got a good bill, Senator.

MOORE: I thank you, Senator.

(Unidentified): (Laughter...overlapping voices...inaudible)

GOVERNOR HOBBY: Senator from Brazos moves to suspend the Constitutional Rule and the regular order in order to take up and consider Senate Bill 34...Secretary, call the roll.

SECRETARY: Adams - Aye
Aikin - Aye
Andujar - Aye
Braecklein - (inaudible)
Brooks - Aye
Clower - (called twice, answer inaudible)
Creighton - Aye
Doggett - (inaudible)
Farabee - Aye
Hance - (inaudible)

Harris - No
Jones of Harris - Aye
Jones of Taylor - (inaudible)
Kothmann - Aye
Lombardino - Aye
Longoria - Aye
Mauzy - Aye
McKnight - (inaudible)
Meier - Aye
Mengden - Aye
Moore - Aye
Ogg - Aye
Parker - Aye
Patman - Aye
Santiesteban - (inaudible)
Schwartz - Aye
Sherman - (inaudible)
Snelson - Aye
Traeger - Aye
Truan - Aye
Williams - (inaudible)

GOVERNOR HOBBY: There being 26 ayes and 5 noes the rules are suspended. The Chair lays out Senate Bill 34 on second reading. The Secretary read the caption.

SECRETARY: Senate Bill 34, relating to incurring an insurance penalty for certain speeding violations.

GOVERNOR HOBBY: Following committee amendment.

SECRETARY: Committee Amendment Number 1. Amend Senate Bill Number 34 by deleting quoted subsection 1 and substituting in lieu thereof the following: No rating plan promulgated by the State Board of Insurance shall assign...

GOVERNOR HOBBY: Senator from Brazos.

MOORE: (Inaudible)

(Unidentified): Mr. President.

GOVERNOR HOBBY: State your inquiry.

MEIER: (Inaudible)...highways? And if this amendment is adopted would it preclude consideration by the Senate of the amendment I just sent up there?

GOVERNOR HOBBY: No Senator, it would not.

MEIER: Thank you, Mr. President.

(Unidentified): Mr. President, (inaudible)...inquiry?

GOVERNOR HOBBY: State your inquiry.

(Unidentified): Are we working on Senator Meier's amendment?

GOVERNOR HOBBY: No, no. We're working on the committee amendment.

(Unidentified): Thank you.

GOVERNOR HOBBY: It's printed in your bill book.

(Inaudible)

(Inaudible...adopt the amendment, Mr. President.)

GOVERNOR HOBBY: All right. The question is on the adoption of the amendment. As many as favor adoption vote aye, those opposed vote no as your name is called. Secretary call the roll.

SECRETARY: Adams -

Aikin -

Andujar -

Braecklein -

Brooks -

Clower - Aye

Creighton - Aye

Doggett -

Farabee - Aye

Hance -

Harris - Aye

Jones of Harris - Aye

Jones of Taylor -

Kothmann -

Lombardino - Aye

Longoria - Aye

Mauzy - Aye

McKnight -

Meier - Aye

Mengden - Aye

Moore - Aye

Ogg - Aye

Parker - Aye

Patman -

Santiesteban -

Schwartz -

Sherman -

Snelson - Aye

Traeger -

Truan -

Williams - Aye

GOVERNOR HOBBY: There being 27 ayes and 4 noes the amendment is adopted. Following amendment.

SECRETARY: Amendment Number 1 by Meier. Amend Senate Bill 34 by deleting Section 1 and inserting therefor the following:

GOVERNOR HOBBY: Let's have a full reading of the amendment.

SECRETARY: Section 1, Section 169B Uniform Act regulating traffic on highways as amended, Article 6701D, Vernon's Texas Civil Statutes, is repealed.

MEIER: Mr. President and Members.

GOVERNOR HOBBY: Senator from Tarrant.

MEIER: Mr. President and Members, this is a very simple amendment. (Inaudible...)on Senator Moore's bill that merely repeals Section 169B of traffic code that was enacted by this Legislature in its wisdom in a special session, called of the Legislature in December of 19 and 73. In other words, put the law right back where it was before we enacted the 55 mile an hour speed limit bill that allows the highway department to unconstitutionally set the speed limits in the State of Texas.

ADAMS: Mr. President.

GOV. HOBBY: Senator from Jasper.

ADAMS: Mr. President and members of the Senate, I'd like to make a point of Article 208, that this amendment could cause a violation of rule 72 and of the Senate rule...(last five words are just a guess!)...that the decision has been made by the chair in...(inaudible)...not...(inaudible, background noises)...and I would cite the chair to the ruling that was made in 1941... (inaudible) (tape seems to break off, nothing recorded here) (extremely low...inaudible)(humming)...bill which seeks to reduce possible penalties that are placed on a person that is...that is fined for speeding...and Senator Meier's bill has nothing to lightening limitations, it has to do with...repeal the whole statute (inaudible)...which sets the penalty.

GOV. HOBBY: Senator from Tarrant.

MEIER: (inaudible)...this bill relates to the effect concerning certain speeding violations on (inaudible)...if the amendment is adopted by the Senate it certainly would have effect in regards to Texas Safety Responsibility Act, and Texas Insurance Program which has to do with (inaudible)...points (inaudible)...of certain violations under the law of the State of Texas. It does deal with speeding violations...(inaudible). It also effects premiums on driver's license suspension, because my information...(inaudible)... something like 378 thousand...(inaudible)...traffic citations (inaudible)...55 mile an hour speed limit...(Inaudible...humming very loud)...and further more, Mr. President, the bill has been filed and it's up to the Senate to amend 169B of the Uniform Act...(inaudible) on Highways. This amendment specifically deals with that very same section and I urge, Mr. President, that it is germane, it deals specifically with all of the same subjects and it is (inaudible).

GOV. HOBBY: Senator from Jasper.

ADAMS: (inaudible)...the bill is not controlled by the caption of the bill, Senator, but it is controlled by the content of the bill. The caption of the bill has nothing to do with (inaudible) and I would like to further cite the Chair to a decision

by the Chair in 1939 that says an amendment relative to maximum gross weight of trucks is not germane until bill regulating to drive a motor carriage...and I'd like to reurge my point of...and my objection...and my Point of Order.

MEIER: Mr. President. Mr. President as the Senator is appreciative of reading me the provisions out of the Rules... I appreciate that but I think that, point of the matter is that the caption is what gives the bill its identity to the people that are here in terms of testimony or whatever its going to be. The content or body of this bill is the same thing that is in this caption. Look at the body of this bill and it even (inaudible)... The reason I'm speaking of the caption in terms of order is because that is really is what the public notices (inaudible)...but if you look in terms of germane...its broader than its bill in terms of its total aspects that has before the Senate right now than it is even under the caption. And Mr. President, I think that these precedents that the Senator has read are interesting precedents but they don't deal at all with the questions that is here before this Senate at this time. I'd urge you that the Point of Order is not well taken and urge you to overrule.

GOV. HOBBY: Senator, it's well established parliamentary practice, as both you and the Senator from Jasper have agreed and argued to the Senate that the caption does not control, that in fact, in ruling on this germane, this point...that the chair should examine the body and the main thrust of the bill. The main thrust of the bill is to amendment Section 169B by adding 2 subsections, taking very specific action. Your amendment repeals, Senator, repeals the whole section, the Chair is going to respectfully sustain the Point of Order on the grounds that your amendment, not on caption grounds but on grounds does violence to the basic thrust of the bill itself. Point of Order sustained. Question on engrossment of Senate Bill 34 as amended, all in favor signify by saying aye.

SENATORS: Aye.

GOV. HOBBY: Those opposed, no.

SENATORS: No.

GOV. HOBBY: Secretary call the roll.

SECRETARY: Adams -

Aikin - Aye

Andujar - Aye

Braecklein - No

Brooks - Aye

Clower - Aye

Creighton - Aye

Doggett - No

Farabee - Aye

Hance -

Harris - Aye

Jones of Harris -

Jones of Taylor -

Kothmann - Aye

Lombardino - Aye

Longoria - Aye

Mauzy - Aye

McKnight -

Meier - No

Mengden - Aye

Moore - Aye

Ogg - Aye

Parker - Aye

Patman - Aye
Santiesteban - Aye
Schwartz -
Sherman -
Snelson - Aye
Traeger -
Truan -
Williams -

GOV. HOBBY: There being 26 ayes and 5 noes, Senate Bill 34 is engrossed. Senator from Brazos moves to suspend the 3-Day Rule, Secretary call the roll.

Adams -
Aikin - Aye
Andujar -
Braecklein -
Brooks - Aye
Clower - Aye
Creighton -
Doggett -
Farabee - Aye
Hance - Aye
Harris - Aye
Jones of Harris - Aye
Jones of Taylor -
Kothmann - Aye
Lombardino - Aye
Longoria - Aye
Mauzy - Aye
McKnight -
Meier - No
Mengden - Aye
Moore - Aye
Ogg - Aye
Parker -
Patman - Aye
Santiesteban - Aye
Schwartz - Aye
Sherman -
Snelson -
Traeger -
Truan -
Williams -

GOV. HOBBY: There being 25 ayes and 6 noes the rule is suspended. The Chair lays out Senate Bill 34 on third reading and final passage. Secretary, read the caption.

SECRETARY: Senate Bill 34 relating to incurring an insurance penalty for certain speeding violation convictions.

GOV. HOBBY: Questions on final passage of Senate Bill 34, Secretary call the roll.

Adams -
Aikin - Aye
Andujar -
Braecklein -
Brooks -
Clower - Clower
Creighton -
Doggett - No
Farabee -
Hance -
Harris - Aye
Jones of Harris -
Jones of Taylor -
Kothmann -
Lombardino -
Longoria -
Mauzy -Aye
McKnight -
Meier - No
Mengden - Aye
Moore - Aye
Ogg - Aye
Parker - Aye
Patman -
Santiesteban - Aye
Schwartz - Aye
Sherman -
Snelson -
Traeger - Aye
Truan -
Williams -

GOV. HOBBY: There being 25 ayes and 6 noes, Senate Bill 34 is finally passed.

(End of Senate Session covering Senate Bill #34.)

RULING ON POINT OF ORDER BY PRESIDENT

The President overruled the Point of Order stating:

"The Points of Order raised with respect to the germaneness of provisions of S.B. 1275 which were added by amendments offered by the Senate are overruled because they were not raised at the time the amendments were offered in the Senate. The Points of Order raised with respect to the germaneness of provision of S.B. 1275 which were added by amendments offered in the House of Representatives are overruled because the amendments are logical extensions of, and germane to, the bill as it passed the Senate."

Senator Meier raised the Point of Order that the House amendments had not been properly printed, in violation of Senate Rule 74(a).

The President sustained the Point of Order.

SENATE RULE 74a SUSPENDED

Senator Farabee moved that Senate Rule 74a be suspended in order that the Senate might consider the House amendments to **S.B. 1275** today.

The motion prevailed by the following vote: Yeas 20, Nays 9.

Yeas: Adams, Aikin, Braecklein, Brooks, Clower, Doggett, Farabee, Hance, Jones of Harris, Kothmann, Longoria, Mauzy, McKnight, Ogg, Parker, Patman, Schwartz, Sherman, Truan, Williams.

Nays: Andujar, Creighton, Harris, Jones of Taylor, Lombardino, Meier, Moore, Snelson, Traeger.

Absent-excused: Mengden, Santiesteban.

Senator Farabee moved to concur in House amendments.

The motion prevailed by the following vote: Yeas 20, Nays 9.

Yeas: Adams, Aikin, Braecklein, Brooks, Clower, Doggett, Farabee, Hance, Jones of Harris, Kothmann, Longoria, Mauzy, McKnight, Ogg, Parker, Patman, Schwartz, Sherman, Truan, Williams.

Nays: Andujar, Creighton, Harris, Jones of Taylor, Lombardino, Meier, Moore, Snelson, Traeger.

Absent-excused: Mengden, Santiesteban.

HOUSE BILL 88 ON SECOND READING

Senator Clower moved to suspend the regular order of business to take up for consideration at this time:

H.B. 88, A bill to be entitled An Act providing for the holding of presidential primary elections by certain political parties and prescribing the method for selecting delegates to national nominating conventions of those parties; prescribing a criminal penalty; amending the Texas Election Code by adding Section 235b and by amending Sections 191, 192, 195, and 212, as amended (Articles 13.13, 13.14, 13.17, and 13.34, Vernon's Texas Election Code).

The motion prevailed by the following vote: Yeas 20, Nays 9.

Yeas: Aikin, Andujar, Braecklein, Brooks, Clower, Doggett, Farabee, Hance, Jones of Harris, Kothmann, Lombardino, Longoria, Mauzy, Meier, Parker, Patman, Schwartz, Sherman, Truan, Williams.

Nays: Adams, Creighton, Harris, Jones of Taylor, McKnight, Moore, Ogg, Snelson, Traeger.

Absent-excused: Mengden, Santiesteban.

The President then laid the bill before the Senate on its second reading and passage to third reading.

The bill was read second time.

Senator Andujar offered the following amendment to the bill:

Amend **H.B. 88** subdivision 9(a) and (b) by inserting 15 percent in place of 12 percent in every line where it appears.

The amendment was read.

On motion of Senator Clower, the amendment was tabled by the following vote:
Yeas 16, Nays 12.

Yeas: Aikin, Brooks, Clower, Doggett, Farabee, Hance, Jones of Harris, Kothmann, Lombardino, Longoria, Mauzy, Parker, Patman, Schwartz, Truan, Williams.

Nays: Adams, Andujar, Creighton, Harris, Jones of Taylor McKnight, Meier, Moore, Ogg, Sherman, Snelson, Traeger.

Absent: Braecklein.

Absent-excused: Mengden, Santiesteban.

Senator Ogg offered the following amendment to the bill:

Amend **H.B. 88** by striking all below the enacting clause and inserting in lieu thereof the following:

Section 1. Subsection (a), Section 235, Texas Election Code, as amended (Article 13.58, Vernon's Texas Election Code), is amended to read as follows:

"(a) The delegates to a national convention of any political party holding primary elections in a presidential election year shall be chosen in the manner outlined in Section 235a of this code. ~~[Any political party holding primary elections in an election year during which it desires to elect delegates to a national convention shall hold a state convention at such hour and place as may be designated by the state executive committee of the party, on the second Tuesday following the second primary election date. Such convention shall be composed of delegates duly elected at the county and senatorial district conventions as provided for in Section 212 of this code. The chairman of the state executive committee shall notify the Secretary of State as to the hour and place at which the state convention will be held and shall also mail a copy of such notice to each county chairman and the temporary chairman of each senatorial district convention in the state at least ten days prior to the date of the state convention.]~~"

Sec. 2. The Texas Election Code is amended by adding Section 235a, to read as follows:

"235a. Presidential preference primary; delegates to national convention

"Subdivision 1. When candidates for the office of president of the United States are to be nominated, each voter of a political party holding primary elections in this state during the presidential election year shall be given the opportunity to vote, at a presidential preference primary election held in accordance with this section, for one person to be the candidate for nomination by his party for president of the United States.

"Subdivision 2. If the general primary election for making nominations for state and county offices is held before May 31 of the election year, the presidential

preference primary shall be held and financed as a part of the general primary. If the general primary is held after May 31, the presidential preference primary shall be held on the first Tuesday in May of each presidential election year. When it is conducted as a separate election, the presidential preference primary shall be held in the same manner as when it is held as a part of the general primary, insofar as possible. The costs of the separate election shall be paid under the same rules and procedures as for the general primary, insofar as they can be made applicable, except that the reimbursement by the state shall be for the full amount of the costs.

"Subdivision 3. The name of any candidate for a political party nomination for president of the United States may be printed on the ballot only:

"(1) by direction of the secretary of state, who shall, within five days after the filing deadline, direct that the name of a candidate be placed on the ballot when the secretary has, in his sole discretion, determined that the person's candidacy is generally advocated or recognized in national news media throughout the United States, unless the candidate executes and files with the secretary of state an affidavit stating without qualification that he is not now and does not intend to become a candidate for president at the forthcoming presidential election; or

"(2) upon the application for nomination meeting the requirements of Subdivision 5 of this section.

"Subdivision 4. Not later than 90 days before the date of the primary, the secretary of state shall make his determination as to the persons whose candidacy for president of each political party holding a presidential preference primary in Texas is generally advocated or recognized in national news media throughout the United States and shall send to each such person, by registered or certified mail with return receipt requested, a notice that his name will be placed on the ballot unless the person files the affidavit described in Subdivision 3 of this section not later than 60 days before the date of the primary. It is the responsibility of the secretary of state to obtain the correct address to insure delivery of the notice to each addressee, and he may not direct that any person's name be placed on the ballot pursuant to his determination unless he has obtained delivery of the notice to that person.

"Subdivision 5. (a) A person desiring to have his name placed on the ballot as a candidate for nomination for president shall file, not later than 60 days before the date of the primary, an application on a form prescribed by the secretary of state. The candidate shall file his application with the secretary of state and shall, at the same time, file a petition or petitions containing the signatures of not less than 15,000 voters of this state. Each petition shall consist of sheets having a general form prescribed by the secretary of state. It shall be signed by registered voters in their own proper persons only; and the address, voter registration number, and date of signing must be shown for each petitioner. Each signature must have been obtained not more than 120 days before the filing deadline. To each of the petitions, which may consist of one or more sheets, shall be attached an affidavit of some registered voter stating that each signature is the signature of the person whose name it purports to be, and that to the best of the knowledge and belief of the affiant, each of the persons signing the petition was at the time of the signing a registered voter. The petition so verified is prima facie evidence that the signatures thereon are genuine and true and that the persons signing it are registered voters.

"Subdivision 6. The names of the candidates for presidential nomination shall be printed as the first race listed on the official ballot for the primary, under the following office title:

'Preference for the Nomination for
President of the United States:'.

The order of the names of the candidates on the ballot shall be determined by lot in each county, in the same manner as the names of the other primary candidates.

"Subdivision 7. Within five days after the filing deadline for presidential candidates, the secretary of state shall send to the state chairman and to the officer in each county who is responsible for making up the primary ballot, a list of the persons whose names are to be placed on the ballot as candidates for president in that party's primary. The election shall be held and the precinct returns shall be canvassed in accordance with the rules governing the general primary election. Within the same time interval that the county primary canvass for state and district offices is forwarded for canvassing at the state level, the officer responsible for forwarding the county canvass shall mail a canvass of the returns for president to the secretary of state. Not later than seven days following the county canvass, the secretary of state shall canvass the statewide returns.

"Subdivision 8. The candidate in each party's primary who receives the highest number of votes is entitled to name that party's slate of delegates and alternates, exclusive of any ex officio delegates and the alternates to represent them, to the national convention of the party. Within 48 hours after the statewide canvass, the secretary of state shall mail a notice of the outcome of the election to the winning candidate and to the state chairman of the party. Not later than 30 days after the date of the primary, the winning candidate shall file with the state chairman the list of delegates and alternates chosen by him.

"Subdivision 9. (a) If the delegation chosen by the winning candidate is seated at the party's national convention, the state executive committee of the party shall name the party's presidential elector candidates, and the chairman and secretary of the committee shall certify to the secretary of state the names of the presidential elector candidates and the names of the candidates for president and vice president who were nominated at the national convention, within the time specified in Section 173 of this code, and the names of those nominees shall be printed on the general election ballot. This procedure shall also be followed if the Texas delegation is not seated but the winning candidate in the primary is chosen as the presidential nominee at the national convention.

"(b) If the delegation named by the winning candidate in the primary is not seated and that candidate is not nominated at the national convention, he nevertheless is entitled to have his name printed on the general election ballot as the presidential candidate of the party in this state, in conjunction with the name of a vice-presidential candidate chosen by him, and to name the presidential elector candidates of the party. Within 10 days after the adjournment of the national convention, he shall notify the secretary of state and the state chairman, in a signed statement duly acknowledged by him, whether he wishes to have his name printed on the ballot. If he wishes to be on the ballot, he shall furnish in the same statement the name of the vice-presidential candidate and the names of the presidential elector candidates chosen by him, and the secretary of state shall accept and act on this statement as the certification of the candidates for the general election, in lieu of any other certification that might be made to him. If the candidate does not wish to be on the ballot, the procedure outlined in Paragraph (a) of this subdivision shall be followed."

Sec. 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Question - Shall the amendment be adopted?

MESSAGE FROM THE HOUSE

House Chamber
May 28, 1977

Honorable William P. Hobby
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 1845 by a record vote of 83 ayes, 33 noes.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 1830 by a non record vote.

All necessary rules suspended, and the House concurred in Senate amendments to House Bill No. 2194 by a non record vote.

All necessary rules suspended, and the Conference Committee Report on Senate Bill No. 182 adopted by a non record vote.

Respectfully submitted,
BETTY MURRAY, Chief Clerk
House of Representatives

HOUSE RESOLUTION ON FIRST READING

The following resolution received from the House, was read the first time and referred to the Committee indicated:

H.C.R. 190, To Committee on Administration.

MEMORIAL RESOLUTIONS

S.R. 794 - by Jones of Harris: Memorial resolution for Mrs. Lucretia M. Whitmarsh.

WELCOME AND CONGRATULATORY RESOLUTIONS

S.R. 790 - by Sherman: Extending congratulations to Michael L. Pate.

S.R. 791 - by Doggett: Extending welcome to Reverend John Logan.

S.R. 792 - by Schwartz: Extending welcome to Austin Middle School of Galveston.

S.R. 795 - by Clower: Extending welcome to Girl Scout Troop 27.

ADJOURNMENT

Senator McKnight moved that the Senate stand adjourned until 10:00 o'clock a.m. Monday, May 30, 1977.

The motion prevailed by the following vote: Yeas 14, Nays 13.

Yeas: Adams, Andujar, Creighton, Farabee, Harris, Jones of Taylor, Lombardino, McKnight, Meier, Moore, Ogg, Sherman, Snelson, Traeger.

Nays: Aikin, Brooks, Clower, Doggett, Hance, Jones of Harris, Kothmann, Longoria, Mauzy, Parker, Patman, Schwartz, Williams.

Absent: Braecklein, Truan.

Absent-excused: Mengden, Santiesteban.

Accordingly, the Senate at 6:02 o'clock p.m. adjourned until 10:00 o'clock a.m. Monday, May 30, 1977.

SEVENTY-NINTH DAY
(Monday, May 30, 1977)

The Senate met at 10:00 o'clock a.m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Hance, Harris, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, Mauzy, McKnight, Meier, Mengden, Moore, Ogg, Parker, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Truan, Williams.

A quorum was announced present.

The Reverend Frank Walker, First Southern Presbyterian Church, Austin, Texas, offered the invocation as follows:

Let us pray:

Eternal God, we join with others this Memorial weekend in remembering those who defended our country in time of danger. We remember those who were called by their nation to defend liberties and preserve unity, and who, in the course of their service, died. Lord we pray for peace. Help us to be peacemakers.

Mighty God, we are grateful for Your patience and grace in lending these senators, staff, the press and the pages through the long hours and days since January 11. One hundred forty days is a long, long time. Continue this last day to guide and inspire. Enable good minds to agree and...Dear Lord thank You. Amen.

On motion of Senator Aikin and by unanimous consent, the reading of the Journal of the proceedings of Saturday, May 28, 1977, was dispensed with and the Journal was approved.